THE CHICAGO STRIKE OF 1894

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THE CHICAGO STRIKE OF 1894

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BY

EDGAR A. (Addison) BANCROFT

Of the Chicago Bar

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Parts of the following paper were read before the Illinois State Bar Association, at Springfield, January 24th, 1895. In its preparation liberal use was made of the exhaustive brief of Hon. Edwin Walker, special counsel for the government, and of the strong and luminous opinion of Hon. Wm. A. Woods, Circuit Judge, in the contempt proceedings, *United States* v. *Debs et al.* My indebtedness to both is gratefully acknowledged.

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INTRODUCTION.

RAILROAD LABOR ORGANIZATIONS.

Railroad employes in the United States have long been organized for protection against their employers and the disabilities of sickness and injury. The leading organizations of this kind are the following: The Brotherhood of Locomotive Engineers (organized May 8, 1863); The Order of Railway Conductors (December 15, 1868); The Brotherhood of Locomotive Firemen (December 1, 1873); The Brotherhood of Railroad Trainmen (September 23, 1883); The Switchmen's Mutual Aid Association (March 2, 1886); The Order of Railroad Telegraphers (June 9, 1876); and the American Railway Union (June 20, 1893). In addition to these associations, the Knights of Labor included in its membership many eastern railroad employes. All these, except the last two, limited their membership to the employes in a particular department of railroad service.*

On June 6, 1889, the Supreme Council of the United Orders of Railroad Employes was formed. It consisted of the chief executive and two other officers of the Brotherhood of Locomotive Firemen, of the Brotherhood of Railroad Brakemen (afterward

* The Brotherhood of Railroad Trainmen was organized as the Brotherhood of Railroad Brakemen, and its membership was confined to brakemen. In October, 1889, it changed its name and its constitution so as to embrace all men engaged in railroad train and yard service. This was the first organization of railroad employes in the United States which admitted to membership the men employed in the different branches of railroad service. It was the first step toward the unification in a labor organization of all railroad employes.

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Trainmen) and of the Switchmen's Mutual Aid Association. A few months later the International Brotherhood of Railroad Conductors was admitted. It was organized by George W. Howard, in opposition to the Order of Railway Conductors, and lived only two or three years. The purpose of the Supreme Council was to unify "the various organizations of railroad employes in their mission of mutual protection:" to exercise a general oversight and control in all disputes between the organizations embraced in the Council, and between the members of the different organizations and their employers. Its constitution provided that no organization should begin either a local or general strike until the Supreme Council should authorize it, and that the grievance of the members against their employers should be passed upon by the Supreme Council and, if approved, be presented by it to the employers for adjustment, before any strike should be ordered. If all efforts at adjustment failed, then the strike should be ordered by the Supreme Council, and should be joined in by all the members of the various organizations represented in the Council.*

* The Supreme Council was practically dissolved June 28, 1891, upon the expulsion of the Brotherhood of Railroad Trainmen. This resulted from a dispute between the Trainmen and the Switchmen over the admission to membership of switchmen employed on the Chicago and Northwestern Railroad, and the refusal of the Railroad Trainmen to order its members to withdraw from the switching service of that company when it dismissed all its employes in that service for the purpose of reorganization.

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THE AMERICAN RAILWAY UNION.

The American Railway Union was organized by its first board of directors as a voluntary association of railway employes on June 20, 1893, at Chicago. The directors had all been connected with other railroad orders, and had had experience in strikes conducted by them.*

In the "declaration of principles," which preceded its constitution in the printed pamphlet provided for the guidance of members, the purposes of the new organization were thus stated:

"The American Railway Union will include all classes of railway employes separately organized, yet all in harmonious alliance within one great brotherhood. There will be one supreme law for the order with provisions for all classes, one roof to shelter all, each separate yet all united when unity of action is required. In this is seen the federation of classes which is feasible, instead of the federation of organizations which has proved to be utterly impracticable."

* Eugene V. Debs, the president, was then secretary and treasurer of the Brotherhood of Locomotive Firemen, and the editor of its magazine. George W. Howard had been the grand chief of the International Brotherhood of Railway Conductors, a member of the Order of Railway Conductors, and the first vice-president of a co-operative banking and insurance organization called the Railway Employes' Industrial Banking Union. Sylvester Keliher, the secretary and treasurer, held the same office in the Brotherhood of Railway Carmen, having headquarters at Kansas City, Missouri; but was compelled to resign the latter office on account of his connection with the American Railway Union. L. W. Rogers, the editor of the *Railway Times*, the official organ of the American Railway Union, had been a member of the Brotherhood of Railway Trainmen and the editor of *The Trainmen's Journal* until December, 1891. Of the other five directors, James Hogan was a member of the Brotherhood of Railroad Trainmen and secretary of its general grievance committee of the Union Pacific Railroad.

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In its statement of the reforms and benefits to be sought and attained occurs the following:

"*First.* The protection of members in all matters relating to wages and their rights as employes is the principal purpose of the organization. Railway employes are entitled to a voice in fixing wages and determining conditions of employment. * * * Thoroughly organized in every department, with a due regard for the right wherever found, it is confidently believed * * * that the service may be incalculably improved, and that the necessity for strike and lockout, boycott and blacklist, alike disastrous to employer and employe, and a perpetual menace to the welfare of the public, will forever disappear."*

The familiarity of the organizers of this association with the history of railroad strikes and the methods which they proposed to use in dealing with disputes between railroads and their employes are shown in the following statement in the "declaration of principles":

"*Tenth.* The extraordinary fact cannot be overlooked, that while present organizations are provided with expensive striking and boycotting machinery, and while millions of dollars, wrung from their members, have been expended in support of strikes, they have, with scarcely an exception, been overwhelmed with defeat. The history of railroad strikes, as conducted by railroad organizations, is a recital of brave but hopeless struggle, of strikers defeated, impoverished, blacklisted, pursued and driven to the extremity of scabbing or starvation. Under present conditions this result is inviteable, and a century of organization on present lines will not change it. Railway employes have contributed from their earnings untold millions in support of organizations, and are, therefore, entitled to protection instead of promises that can never be fulfilled.

"It cannot be denied that the policy of present organizations has filled the land with scabs who swarm in the highways and byways, awaiting anxiously, eagerly, the opportunity to gratify their revenge by taking positions vacated by strikers. Thoughtful men have no difficulty in accounting for the failure

* Pages 10 and 11, Constitution, June 5, 1893.

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of railroad strikes. Neither are they at a loss to suggest a remedy. Organized upon correct principles, governed by just laws, and animated by unselfish purposes, the necessity for strikes and boycotts among railroad employes will disappear."*

The "declaration of principles," after discussing at considerable length and with equal vagueness, the difficulties and objects of such an organization, concludes as follows:

"With this declaration of its purposes and with boundless faith in its conquering mission, the American Railway Union consecrates itself to the great cause of industrial emancipation."†

The constitution provided for a president, a vice-president, a secretary, an editor, and a board of directors of nine members, the officers being members of the board. The directors were to be elected quadrennially, and had general supervision of the organization. They were to be elected by the General Union, which was composed of delegates elected, one each, by the local unions. These could be formed by ten or more railroad employes at any place, under a charter from the General Union.

Regarding disputes between members and their employers, the constitution provided that the board should at each meeting make inquiry concerning the protection vouchsafed to all members, and take the proper action to secure such protection of the members' rights as employes. The complaints of members against their employers should be taken up for adjustment: first by the Local Board of Mediation; afterwards, under direction of the president, by a director; and then by the General Board of Mediation; and finally by the Board of

* Constitution, 1893, p. 11.

† *Ibid*, p. 14.

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Directors; and the directors were given "full power to proceed as they may deem prudent."*

These provisions, it will be noticed, do not support the contention of the officers, that the power of ordering and directing last summer's strike rested entirely with the local unions, and could not be exercised by either the president or the directors.

The other railroad organizations, with unimportant exceptions, required monthly dues to the central organization to maintain an insurance department, and to the local lodge to cover sickness

* The constitution contained the following provisions: Section 3—"The board shall at each of its meetings make special inquiry, through its various standing committees and other available sources, into the matter of protection as vouchsafed by the constitution to all members of the order; and if it be found that any member has not been fully protected in all rights as an employe, such action will be taken as will strengthen the order where weakness prevails, and give it efficiency to fully protect the rights and interests of every member."

Section 11 provided that the president should "decide all questions and appeals, which decisions shall be final, unless otherwise ordered by the board. He may, with the concurrence of the board, deputize any member to perform any required service, issue dispensations not inconsistent with the constitution or regulations of the order, and perform such other duties as his office may impose."

Section 34 prescribed that if any member had any complaint against his employer, he should refer the same for investigation to the Board of Mediation of the union of which he was a member. If they should find that his complaint was just, that board should do all in its power to have it remedied. Failing in this, they should notify the president of the General Union, who should cause one of the directors to meet with the local board and attempt an adjustment. If he should fail, he should notify the president to convene the General Board of Mediation; and if they should fail, they should direct the president to convene the Board of Directors; and they would "have full power to proceed as they may deem prudent in securing a speedy and satisfactory adjustment of the difficulty."

These are the only provisions relating to the conduct of grievances and strikes.

No change was made in the declaration of principles or the constitution until the convention of June 12-22, 1894; and the unimportant changes then made did not become effective until July 20, 1894.

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and partial disability. If these were not promptly paid the member was dropped.*

The American Railway Union required only a membership fee of one dollar annually.†

This difference in dues between the new order and the older ones was further emphasized by the promise of the officers and directors in organizing local unions that no member should be dropped for failure to pay the dollar annually if he could not pay it.

The growth of the American Railway Union, as reported in the *Railway Times*, was as follows:

January 1, 1894,	125	local unions,	20,000 members.
February 1, 1894,	164	" "	
March 17, 1894,	175	" "	37,000 "
April 1, 1894,	228	" "	
May 1, 1894,	287	" "	
June 1, 1894,	355	" "	
July 1, 1894,	453	" "	over 100,000 "

In his testimony before the Strike Commission, President Debs stated that there were 465 local unions, with a membership of about 150,000, represented in the convention held in

*All of the railroad organizations above named, except the telegraphers, provided their members with insurance against death or total industrial disability in amounts ranging from $600 to $1,500. In the Brotherhood of Locomotive Engineers the taking of insurance is optional; in all the others it is an essential feature of the organization, and every member is compelled to pay monthly dues to the grand lodge or head organization, to maintain this insurance or "beneficial" feature. Most of them provide for two classes of dues: to the local lodge or union to cover partial disability or sick benefits, and to the grand or supreme lodge or union to cover death or total disability and membership. These dues are often burdens upon those engaged in the lower grades of service, and upon all in times of partial employment; but their prompt payment is absolutely necessary to continued membership.

†Application for beneficial insurance and payment of dues therefor was optional, and the insurance department was not organized until June, 1894.

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Chicago June 12 to June 22, 1894. This is an average of 322 members to each local union, where only ten members are required for purposes of organization. Judged by the average membership of local lodges of other railway orders, this is certainly excessive. The membership probably did not exceed 75,000.

The "declaration of principles" stated that over eighty per cent. of the 900,000 railroad employes in the United States were unorganized; yet the American Railway Union did not confine its propaganda to these, but naturally sought to enroll all railroad men, whether members of other organizations or not. This led to considerable hostile feeling between the older orders and the new and energetic rival. Nearly every number of the *Railway Times*, the semi-monthly organ of the union, contained slurs or direct attacks upon one or more of the other orders or their officers.*

It was the evident purpose of the American Railway Union practically to absorb all the existing organizations of railroad employes, by enrolling such portion of their members and such large numbers of railroad men not organized, as to give the union the leadership and ultimate control in all disputes between the railroads and their employes. Its aim, as stated in the "declaration of principles," and as publicly avowed by its officers during April and May, 1894, could not otherwise be accomplished.

The first dispute in which the American Railway Union intervened related to a reduction of wages by the receivers of the Union Pacific Railroad, in January, 1894. The receivers, to prevent a threatened strike had procured from United States

* Its attacks upon the officers of the Brotherhood of Railroad Trainmen, the Order of Railway Conductors and the Brotherhood of Locomotive Engineers, were frequent and bitter. In reporting the strike on the Great Northern Railroad, which was begun in April, 1894, and successfully terminated May 1, 1894, by the American Railway Union, it charged that these organizations had been guilty of treachery and other despicable conduct in connection with that strike.

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District Judge Dundy [1] an approval of the new schedules and an order similar to that entered by Judge Jenkins in the *Northern Pacific* case.[2] When the schedules were presented to Judge Riner of the same circuit, he refused to approve them.[3] Meetings of the employes were then called to protest against the reductions. At a public meeting at Cheyenne, in March, 1894, President Debs condemned the court's order, and denounced Judge Dundy as "a contemptible cur" for having entered it. Afterward the question was presented to United States Circuit Judge Caldwell, by the petition of the representatives of the different organizations. He ordered a conference at Omaha on March 15; and when the receivers and employes failed to agree, he reversed the order of Judge Dundy, and ordered the receivers to pay the former wages and restore the old schedules.[4] Application was then made to Judge Dundy for the restoration of wages paid prior to September 1, 1893. On April 13 Judge Dundy, in an opinion remarkable for its personalities and bad temper, granted the application.[5]

The strike upon the Great Northern system of railroads, extending from St. Paul to the Pacific, was the result of the Railway Union's second intervention. In August, 1893, and in January, 1894, the wages of all employes except conductors and brakemen had been cut from five to thirty per cent. March 1, 1894, the classification was changed, causing a further reduction. April 13th James Hogan, an American Railway Union director, notified the general manager of the Great Northern system, that unless former wages were restored, and the Helena and Great Falls switchmen were paid the wages received at Butte, and unless he would agree to meet representatives within ten days to arrange new schedules, all employes would strike within six hours. No answer being received to the telegraphic

[1] See *Ames* v. *Union Pac. R. Co.*, *infra*.

[2] *Farmer's L. & T. Co.* v. *Nor. Pac. R. Co.*, 60 Fed. R., 803.

[3] *Ames* v. *Union Pac. R. Co.*, 60 Fed. R., 674.

[4] *Ames* v. *Union Pac. R. Co.*, 62 Fed. R., 7.

[5] *Ames* v. *Union Pac. R. Co.*, 4 Int. St. Com. Rep., 625, 632.

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notice, Hogan ordered the men on the Butte division to strike at noon that day. The order was generally obeyed. Under the direction of the American Railway Union the strike spread over the entire system, and by April 28th had stopped all business. On this day the Executive Board of the Knights of Labor ordered out all their members employed on the Great Northern. A conference and an agreement to arbitrate followed. Ninety per cent. of the differences were compromised. On the remaining grievances, the arbitrators decided that 75 per cent. of the reductions since August 1, 1893, should be canceled. The result was a substantial victory for the American Railway Union, which had ordered the strike without consulting the other older orders, though each had many members among the employes.

Thus in the very beginning of its active existence, the American Railway Union had played an important part in two wage disputes, and had achieved substantial benefits for the employes. The results attested the energy and ability of its leaders.

THE PULLMAN STRIKE.

It is not my purpose to enter into the details of the Pullman strike or to attempt to decide the questions it involved. My opinion is that the grievances of the employes were real and serious, but that the strike was ill-timed, if not unwise. The merits of that controversy, however, have no bearing upon either the beginning or the prosecution of the railroad strike. The relation between them is purely historical: the issues in one are irrelevant in considering the other. The only important point—the vital fact—in the connection of the two strikes is, that the American Railway Union, to aid the Pullman strike which it was directing, ordered a boycott against the hauling of Pullman sleeping cars by the railroad companies. Until this

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boycott was declared, the railroads were as unrelated to the Pullman trouble as were the street-car companies, or as any other company accustomed to buy the products of the Pullman factories. When that order was made it compelled the railroads either to join in the boycott, become supporters of the strike, and break their contracts with the Pullman Company, or to refuse to interfere in a conflict in which they had no interest and properly could have no part.

Pullman, as is well known, is a manufacturing town near Chicago, built up by the Pullman Palace Car Company. It owns all the land and improvements in the town. Its industries have no connection with the railroads of the United States, except as they use the cars and other articles of railway equipment made there. In the winter of 1893-94, the rate of wages was reduced from 30 to 50 per cent. At the same time the quantity of work given out, which was paid for by the piece, was limited. This reduction, which the company claimed was due to the general depression in business and to the low prices obtained for the manufactured cars, was extended to the repair department, where the same reason for the reduction did not exist. The result was that the wages earned in the lower grades of service were hardly sufficient to provide the ordinary necessities of life. The irritation caused by the reductions was much aggravated by the fact that the company was also the landlord of the majority of the workmen, and that it made no reduction in rents. That the sleeping-car branch of the business still made large profits, and the entire earnings of the company were little affected by the hard times, was exasperating to the aggrieved employes. It was, therefore, both natural and reasonable that the employes should be dissatisfied and restless under the conditions existing in the spring of 1894. There were reasons for it, even though the reductions were no greater than the low prices of cars required, or though the rentals charged were not above the current rate: —though both these claims made on behalf of the Pullman Company may well be doubted.

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Although the constitution made only railway employes eligible to membership, the directors of the American Railway Union organized eighteen local unions among the employes in the shops at Pullman, Illinois, and several others among the Pullman Company's employes at St. Louis, Mo., Ludlow, Ky., and Wilmington, Del. Not one of these was engaged in railway service. Their work, as shown by the statement submitted to the Strike Commission, was that of carpenters, machinists, painters, cabinet-makers, upholsterers, carpet and linen sewing, and laundering. One union at Pullman was composed of laundry girls. The organizing of those local unions was wholly unauthorized by the constitution, and was entered upon with full knowledge of the serious complaints which the Pullman employes were then making. In this unwarranted action by the directors, the first step toward the Chicago strike was taken.

The first local union was formed at Pullman, about February 1, 1894, and its eighteenth about June 1. On May 1, in the height of the trouble preceding the strike, there were but six. On May 11, 1894—the number having increased to fourteen—their members with but a few hours notice, if any, quit the employment of the Pullman Company.*

* The formulated grievances of the men, as stated by the *Railway Times* of May 15, 1894, were that since May 1, 1893, wages had been cut from 33 to 50 per cent.; that rents had not been reduced; that the under-officials and bosses mistreated the men, and many of them were incompetent. A redress of these grievances was demanded. This strike was entered upon against the advice of the president and probably of the other directors of the Railway Union. As early as May 15th the *Railway Times* admitted that the strike was premature; that there should have been an attempt to adjust matters with the company; and that in this way, although the strike might not have been avoided, the union would have been better prepared to present its case to the public. The precipitancy was due to the discharge of certain members of the grievance committee, after a conference, and in violation of a promise that no member of the committee should be discharged, and to a rumor that the Pullman Company had decided upon a "lockout" in anticipation of the threatened strike.

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The Pullman Company met this loss of about eighty per cent of its employes by closing its works altogether. From May 11 to June 12, the factories were shut down, and the company made no effort to resume work. The strike had become a lockout; the strikers seemingly were worsted. In the meantime, the officers of the American Railway Union investigated the conditions at Pullman, and decided that the strikers ought to be sustained with the full strength of the union.*

* The *Railway Times* of June 1st, thus anticipated the railroad strike: "There are a number of pressing matters requiring immediate attention, notably the Pullman strike, a battle royal between one of the labor-grinding monopolies of the day and the strongest Railway Union in the world * * * wait until the convention will enable the A. R. U., to get sponged off as preliminary to the next round. The A. R. U. does not intend to make requests or demands for peaceful settlements until it is able to back them up."

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THE CHICAGO STRIKE OF 1894.

THE CONVENTION OF JUNE 12–22.

On June 12th the first convention of the General Union—the governing body—of the American Railway Union assembled in Chicago. Local unions, numbering 423 and representing over 100,000 members,* were represented, one delegate coming from each union. In his opening address President Debs said that the union was the first of the railway organizations that was properly constructed; that all others "had blow-holes in their armor while this one was built for war, and no weakness would be found in it when it came time to test its armament." The convention without dissent declared in favor of taking up the fight against the Pullman Company, and appointed a committee to wait upon the manager. On June 16, the committee reported that the Pullman manager refused to recognize them or treat with them. The convention defined a "scab" as "a man (whether union or non-union) who takes the place of a man who strikes," and excluded all such from membership. It requested all members connected with any military body to resign therefrom, and not unite therewith, "until such time as such military bodies are used in a more righteous cause than at present," and denied membership to all persons connected with such military body.† It refused to admit colored

* *Railway Times*, August 15, 1894; or numbering 465, and representing 150,000 members, as claimed by Debs before the Strike Commission.

† *Railway Times*, July 2, 1894.

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men to membership; thus excluding the only body of Pullman employes who are in any sense *railway* employes,—after admitting the painters and laundry girls. After appointing a committee to procure return passes for the delegates, the convention resolved that the railroads should be owned by the government. On June 22, the delegates having been so instructed by their respective unions, it was voted that if the Pullman Company did not adjust its differences with its employes by noon of June 26, a boycott would then be enforced against the hauling of its cars. All the directors, save one, were re-elected, and the convention adjourned for four years. On the same day notice was given through the press, but not otherwise, that five (really four) days later, at noon,—Tuesday June 26th,—the American Railway Union would boycott Pullman cars, unless the company would agree to arbitration.

THE PULLMAN BOYCOTT.

On June 25th, the general managers of the railroads entering Chicago met to consider what action they should take in relation to the threatened boycott. They adopted a resolution protesting against the proposed interference with the management of their business, and pledging themselves to unitedly resist the boycott "in the interest of their existing contracts, and for the benefit of the traveling public." On the same day, the Pullman employes at St. Louis, Missouri, and Ludlow, Kentucky, struck.

In the evening the leaders of the American Railway Union addressed a large public meeting in Chicago, called in the inter-

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est of the proposed boycott. Vice-President Howard, in the course of his address, said that a war was impending between combined capital and labor, and that it would probably begin on the morrow. Director Rogers said that the "fight meant more than the mere settlement of the strike at Pullman; it was a fight between labor and plutocracy, in which all the forces of capital would be united and against which all the forces of labor should combine."

On June 26th telegrams were sent to the presidents of all the railroad organizations, of the American Federation of Labor, of the Knights of Labor, of the Cigarmakers' International Union, and of the United Mine Workers, stating that the American Railway Union had declared a boycott against the Pullman Company to take effect at noon on that day; and asking their "aid and co-operation in this fight of organized labor against a powerful and oppressive monopoly."

At noon, on the same day, the boycott order was given by the following telegram, sent to 200 different points on western railroads:

"Boycott against Pullman cars in effect at noon to-day. By order of convention. E. V. DEBS."

The meaning of this order was given in the following telegrams:

"Boycott against Pullman Company is in full force and effect and no Pullman cars are to be handled or hauled." (Debs to Argentine, Kansas, June 27th.)

"Convention ordered boycott of Pullman cars, *and this means they shall be cut out and detracked.*" (Debs to Walters, Raton, New Mexico, June 27th.)

Under the boycott order the overland passenger trains were stopped on June 26th, at Trinidad, Col., Raton, N. M., and

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Livingston, Montana; and the Pullman cars with their passengers were placed upon the side-tracks. At Chicago, the Illinois Central Railroad was selected as the first point of attack. Its first train, after the order, was due to leave at 1:35 P. M. for New Orleans, and usually hauled two Pullmans. The train had been made up before noon with the Pullmans chained together and the couplings locked.

The *Railway Times* thus described its departure:

"It devolved upon the tower-man, who manages the network of interlocking switches, to refuse to give the block, but at that time, in expectancy of such event, the tower filled up with officials. When the express (train) called for the block, the tower-man hesitated, but let her through.

"*It became evident now that refusal to switch Pullmans was not quick enough work and the switchmen were ordered out.* At 4 P. M. the delegation from the road called at headquarters and received definite instructions, and by 9 o'clock not a wheel was moving on the Illinois Central inside the city limits."*

Thus, on the first day, the Pullman boycott was becoming a general railroad strike; and the officers and members of the union were co-operating over a vast territory toward a common end—the unlawful stopping of Pullman cars.

The convention had declared a boycott on the hauling of Pullman cars. It had made no request of the railroad companies, and it ordered no action against them. The boycott was a direct assault upon the property rights of the Pullman Company, intended seriously to damage its business. It was as unlawful, and if successful it would be as injurious as the destruction of its shops and its cars. It was also an unlawful interference with the business of the railroad companies, bound by contract to haul the Pullman cars. It took from them their control of one branch of their business, and directed their employes, while continuing in their service, to refuse to perform

Railway Times, July 2d.

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certain of its important duties. If employes could be thus controlled by an organization, the employer would be injured as seriously and as unlawfully as if tangible property of like value had been destroyed. A boycott is unlawful—the word means an unlawful conspiracy—and every act done in pursuance of it is illegal. When, therefore, the directors ordered the boycott, four days after the convention adjourned, their authority or want of authority from the convention could not affect their legal or moral responsibility for their subsequent acts and orders, and for their natural results.

THE RAILROAD STRIKE.

The definite instructions given to the Illinois Central employes on the evening of June 26th were promptly telegraphed to the principal points on all western lines:

"Boycott Pullman cars and if company insists upon hauling them, every man in all departments quit."

On the 27th, the president of the union, without any previous communication with any of the railroad companies to be affected, ordered a general strike of all employes on all western railroads hauling Pullman cars. The avowed purpose was to compel the railroads to aid in the enforcement of the boycott. The strike thus begun was prosecuted with great vigor throughout the region west of the Ohio and Mississippi rivers under directions telegraphed in the name of President Debs from the headquarters of the American Railway Union at Chicago. The telegrams sent by the Western Union during the fortnight following amounted to more than $2,000 per week. That the directors of the American Railway Union were in complete control of the strike, and that its object was to com-

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pletely tie up the railroads, and that the strikers were to use all available means to that end, is clearly indicated by the telegrams. On the train held at Raton there was a sick lady and a corpse. President Debs was asked whether the men should handle the car or train for the purpose of taking them to their destination. He answered:

"You are correct. Do not handle any trains." (Debs to Raton, June 28th.)

And on the next day:

"Your stand is correct. Stay with them until the finish."

This telegram was sent to Debs from San Bernandino, California:

"Santa Fe hauling mails. Men furnished to handle same."

Debs answered:

"No forcible interference with mail trains, but any man who handles trains or cars will be a scab. All lines Chicago west are being tied up." (Debs to San Bernardino, June 28th.)

To the representative at Trinidad where two overland trains were held, Debs telegraphed:

"Sent message referred to, but this does not mean that any man will handle trains until the strike is declared off. No loyal man will handle trains at all on your system."

The chairman at Las Vegas, New Mexico, telegraphed:

"Everything tied up here. Why are A. & P. men not out? Passenger train came south this morning and will be held here. Get after Albuquerque and El Paso. Answer."

Debs answered:

"A. & P. has been ordered out. Needles and Williams have responded. If there are any places in your reach that are not out, adopt measures to call them out. Northern Pacific and Chicago lines all out." (Debs to Breene, Las Vegas, June 28th.)

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To stations on the Denver and Rio Grande Railroad, Debs telegraphed:

"If your company refuses to boycott Pullmans, tie it up. * * * Santa Fe, Northern Pacific and Chicago lines all tied up." (Debs to Leadville, Colorado, *et al.*, June 28th.)

To twenty-five points on western railroads this:

"Northern Pacific, Southern Pacific, Santa Fe and all Chicago lines out to enforce Pullman boycott. Take same action immediately." (June 28th.)

Upon the two overland trains held by the strikers at Livingston, there were invalids and helpless women and children. The passengers appealed to the local chairman to send these forward. He disclaimed authority except from President Debs. To telegrams sent by chairman and the passengers, Debs responded June 29th:

"The entire responsibility for the present condition of affairs rests with the railroad companies, who pledged themselves to stand by Pullman. The strike was ordered by convention, and cannot now be rescinded."

On June 29th, the papers contained a telegram from United States Circuit Judge Caldwell to the receivers of the Santa Fe system, stating that the men had a perfect right to quit, but that so long as they remained in the service they must perform their duties, and that if they quit, they could not lawfully interfere with persons desiring to fill their places. The United States Circuit Court at Chicago and at Denver entered orders forbidding all interference with the property or employes of the Santa Fe receivers. Referring to this, President Debs sent the following telegrams to points on that railroad:

"Santa Fe boys here and west of Argentine are solidly out. Pay no attention to injunction. All Chicago and Pacific Transcontinental lines are out. Stir them up at Fort Madison and Marceline." (Debs to Chillicothe *et al.*, June 29th.)

"Pay no attention to injunction orders. Men will not be slaves. Victory is sure. Pacific Transcontinental lines and Chicago lines tied up." (Debs to Emporia, Kan., June 29th.)

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"Entire Santa Fe and 25 other roads tied up to enforce boycott. Take same action immediately." (Debs to Aubrey, Newton, Kansas, June 29th.)

"Have noted Judge Caldwell's dispatch. * * * Commit no act of violence, but stand solid and refuse to work." (Debs to nineteen points on Santa Fe, June 29th.)

When informed that the men at Chanute, Kansas, were served with discharge notices, President Debs answered:

"Stand firm. Men on this end of the line out solid. West end paralyzed. Never mind discharge notices. Employes on all roads will stand together. When one goes back, all will go." (Debs to Crenshaw, Chanute, June 30th.)

To points on the Rock Island railroad these telegrams were sent:

"Chicago and all lines west are *paralyzed.* Adopt measures to tie up Rock Island from Topeka, west and east." (Debs to Sloat, Topeka, Kansas, June 30th.)

"Order every man on Rock Island system out to enforce Pullman boycott. All men joining in the struggle, whether members or not, will receive full protection." (Debs to Moline, LaSalle, Joliet and Rock Island, Ill., June 30th.)

The mob of strikers had blocked the railroad at Trinidad, Col., and overland trains had been held there four days, when Debs sent the following telegram:

"Do not interfere with mail trains in any manner. Promise full protection to all assisting in this struggle, whether members or not. Blockade more perfect hourly." (Debs to Myrtle, Trinidad, Col., June 30th.)

On the 28th, Debs telegraphed Dwyer, president of the local union at Cairo, Illinois:

"All Pacific Transcontinental lines are tied up solidly. * * * Take full charge of the situation. Tie up every line possible in order to enforce boycott. Do not cut any cars from mail trains, but no loyal man will move a train of any kind under existing conditions."

On the next day, the strikers stopped the Illinois Central and Mobile & Ohio trains—some of them carrying mails—at Cairo, and held them after notice from the Post-office authori-

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ties that they must be released. On being applied to by the Superintendent of the mail service at Chicago, Debs promised the release of the mail trains. The Mobile & Ohio asked him to release their trains, as they were not hauling Pullman cars. Upon their promise in writing not to haul Pullman cars until the strike was settled, Debs instructed Dwyer "to release the embargo," and it was done.*

* The telegrams in relation to the blockade at Cairo, Ill., show how completely the actions of the strikers were directed and controlled by the leaders at Chicago. They follow in order of time.

June 28, Dwyer to Debs:

"*General tie up here on I. C. (Illinois Central.) Have we your consent to make it the same on all roads entering here? Answer.*"

Same:

"*Quick answer to mine today. Men very impatient; injunctions being arranged by railroads here. If all roads are ordered out, we can stop injunctions, which I recommend.*"

Debs to Dwyer, June 28, 1:08 P. M:

"*All Pacific trans-continental lines are tied up solidly. Chicago lines are dropping out one after another. Take full charge of the situation.* TIE UP EVERY LINE POSSIBLE IN ORDER TO ENFORCE BOYCOTT. *Do not cut any cars from mail trains, but no loyal man will move a train of any kind under existing conditions.*"

Dwyer to Debs:

"*Every road entering here tied up. What constitutes mail train? Do you want sleepers taken off same? Answer quick.*"

Debs to Dwyer:

"*Have all men stand firm. Utterly impossible to get men to fill places now vacated. The blockade becomes more perfect every minute. Just stand together and victory is certain.*"

Dwyer to Debs:

"*M. & O. say that they will not handle Pullman cars if we will handle their freight and passenger trains. Answer quick.*"

June 29, Debs to Supt. of M. & O. R. R. Co:

"*Please advise if your road is included in the General Managers' Association. If not we will at once release boycott upon terms you propose.*"

Supt. M. & O. to Debs:

"*Our road is not a member of the General Managers' Association. Please release our boycott.*"

Debs to Dwyer:

"*Mobile and Ohio does not belong to General Managers' Association. This is authority to release embargo upon assurance from them to you in writing that they will not handle Pullman cars until this matter is settled. It is understood that all employes will be reinstated without prejudice.*"

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At Cincinnati, the strike was in charge of one Phelan. Debs telegraphed him June 30th:

"If the management of the Big 4 agrees in writing that they will withdraw their support from the General Managers' Association and boycott Pullman cars, reinstate strikers without prejudice, the embargo may be raised. Consult us before you release them."

When it declined these terms, Debs replied:

"Knock it to them as hard as possible. Keep Big 4 out and I will get them out at other places." (Debs to Phelan, July 1st.)

Within a week, the Pullman Company and its cars were lost sight of, and the fight was directed against all of the western railroads, whether hauling Pullman cars or not, and whether members of the General Managers' Association or not.

On July 2nd, Debs telegraphed Phelan that the five or six non-Pullman car railroads were "in the fight. Take measures to paralyze all those that enter Cincinnati." On the same day, Mrs. Leland Stanford telegraphed President Debs that the strikers were willing to move her private car from Dunsmuir to San Francisco with "your permission and sanction."

President Debs answered:

"The train will haul your car to its destination on presentation of this telegram." (Debs to Mrs. Stanford July 2nd.)

On June 27th, the Grand Master of the Knights of Labor, after consulting with the American Railway Union directors, issued an address to the officers and members of his order. After reciting the circumstances of the Pullman strike and the boycott order, he appealed to them to "prosecute with all possible power the boycott against the Pullman palace cars" and "against all railway corporations aiding said Pullman Company." *

* *Railway Times*, July 2, 1894.

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On June 30, President Debs issued an address "to the Railway Employes of America," asking them, regardless of organizations, to join "in this fight" against the railway corporations. It condemned acts of violence thus: "Let there be no interference with the affairs of the companies involved, and above all let there be no act of depredation. A man who will destroy property or violate law is an enemy and not a friend to the cause of labor."

Within forty-eight hours after the issuance of the first orders, a concerted and similar course of action was adopted at the important railroad centers from Chicago to San Francisco. Under the direction of the local representatives of the American Railway Union, the employes first detached the Pullman cars from all trains. Then when any employes were discharged for disobedience of orders, all quit the service. Those who desired to continue in the service were compelled to quit. They were denounced as "scabs" and traitors to the cause of labor and threatened with personal violence if they continued. If these means were unavailing, they were forcibly taken from their trains in many instances, in others covertly assaulted.

The strikers gathered in large numbers upon the station grounds and few employes dared to resist their demands. Toward new men employed to take the strikers' places, similar means were employed. Intolerable abuse was heaped upon them, violence was freely threatened and used, and they were in constant danger of assault.

To prevent the running of trains which despite these dangers the companies were able to equip, the strikers misplaced and spiked switches, removed switch lights at night, uncoupled cars, closed crossing gates, and gathered in crowds upon the tracks. On the first day a crowd of 4,000 people blocked the Illinois Central tracks at Grand Crossing. When police protection was furnished and the gates were opened, a striker deliberately threw himself in front of the train. The strikers

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controlled the gates and opened them for Michigan Central trains but closed them against those of the Illinois Central. (*Railway Times*, July 2, 1894.) By these and similar means express trains carrying the United States mails were held for several days by mobs of strikers, plainly acting under similar instructions and seeking a common purpose, at Cairo, Danville, Decatur and Blue Island, Illinois; at Trinidad, Colorado; Raton and Las Vegas, New Mexico; Livingston, Montana; Sioux City, Iowa; Los Angeles and Sacramento, California.

But as the strike progressed the acts of interference became more flagrant. At Blue Island, a suburb of Chicago, a mail train was derailed, its locomotive overturned, and the tracks blocked. Freight cars were also overturned by the strikers there, some of them set on fire. At Hammond, Kensington, Riverdale and Burnside, near Chicago, similar acts of physical interference were used successfully to obstruct all trains. At Trinidad, Colorado, the track was soaped, and a train was run off the mountains near the Bloomsburg mines. When United States deputy marshals were sent thither to protect the mails, under order of United States Judge Halleck, the mob disarmed them and tore the copies of the order from the bulletin boards.

At Grand Crossing an Illinois Central train was wrecked by drawing the spikes from the rail, and at Hammond the lines of the Monon and Baltimore and Ohio were completely blocked by a mob that drove the trainmen from their posts, and uncoupled and side-tracked the cars.*

*At Raton, a faithful telegrapher was driven from his work and threatened with lynching. At Kensington, Milwaukee, Detroit and several other places, engineers and firemen were forcibly taken from their trains, assaulted or restrained of their liberty.

On July 5, cars were overturned and mob law ruled on the lines of the Rock Island and Lake Shore and Michigan Southern Railroads.

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The violence of these mobs was directed against unfortunate passengers as well. At Danville, Blue Island, Raton and other places, threats of violence or of boycott were used to prevent belated passengers from obtaining food and drink. Against marshals and deputy sheriffs, engaged in the preservation of order and railroad property, as well as against new men, the boycott was used to prevent restaurants and boarding houses from furnishing them food. By these means — by intimidation, violence toward person and property, by rioting and mob rule — the transportation of the mails and of inter-state commerce was obstructed throughout the west. At Chicago, the railroads were paralyzed.

All business at the Union Stock Yards and at the great packing houses depending upon the railroads and the stock yards for their supplies, were suspended. Trains of dressed meat that had been started to eastern points on June 29 and 30, were stopped and their contents damaged or ruined by the heat. An actual embargo upon the commerce of Chicago existed.

On the same day the engineer and fireman on the Michigan Central were dragged from their locomotive, assaulted and driven away.

On the 6th, mobs attacked and overturned cars and destroyed the property of the Belt Line and Alton roads in the City of Chicago.

On the 7th, rioting occurred at 49th street in Chicago, and seventeen persons were wounded by the soldiers in the attempt to disperse the mob.

At Hammond, Indiana, the mob was in possession of the town on the 8th, resisted the troops and serious rioting occurred.

On the same day the track was blown up by dynamite at Grand Junction, Colorado, and a bridge burned at New Castle, Col.

On the 9th, dynamite was placed on the track south of Las Vegas in order to wreck train No. 3, but it was exploded by a freight train.

On the 10th the mob took possession of the shops at Galveston, Texas, drew the fire from the engines and drove the employes from the yards.

On the 13th, a passenger train on the Big Four railroad was ditched at Terre Haute, Indiana, and the engineer and fireman were killed.

Over a million dollars worth of railroad property was destroyed at Chicago. The loss of earnings to the railroads amounted to nearly $5,000,000, and the loss of wages to railroad men to $1,500,000. At least twelve persons were killed at Chicago, and many more were seriously wounded.—[Report of Strike Commission, page 14.]

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Milk, fruits, vegetables and other perishable products intended for Chicago were delayed and lost. The supply of provisions and fuel ran low and prices proportionately increased. The principal arteries of trade through which Chicago received its supplies were controlled and closed by mobs of strikers and their sympathizers. This was the condition of affairs when the United States filed a bill in equity for the removal of obstructions to the transportation of the mails and of inter-state commerce, and for the prevention of further interference therewith.

The bill for injunction was filed in the United States Circuit Court for the Northern District of Illinois on July 2nd. And on the same day, Circuit Judge Woods and District Judge Grosscup granted the order of injunction as prayed. It was directed against the American Railway Union, its four officers, naming them, and thirteen other persons by name, and "all persons combining and conspiring with them and all other persons whomsoever," enjoining them from in any manner interfering with, obstructing or stopping any of the twenty-two railroads named, in the carrying of inter-state commerce or the United States mails.

It specified a great number of acts forbidden and contained a general order enjoining them from "doing any act whatever in furtherance of any conspiracy or combination to restrain either of said railroad companies or receivers in the free and unhindered control and handling of inter-state commerce. * * * And from ordering, directing, aiding, assisting or abetting" any person in the commission of the acts forbidden. This injunction was at once served upon several of the defendants named and was on the same day read to the mob at Blue Island. The mob refused to listen to it, crying "To hell with the government. To hell with the court. We are the government."

The mobs at Chicago having continued to increase in numbers, United States troops were ordered by President Cleveland on the evening of July 3d from Fort Sheridan

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to Chicago. They reached the points of disturbance on the morning of July 4th. They were assailed by the mobs with vile language, and an occasional stone was thrown. No organized resistance was offered, but the mob formed at other places as rapidly as dispersed, and the acts of violence, interference and obstruction were continued. The troops, about 500 in number, were not able to cope with the mobs, numbering from 300 to 1,000 persons each, at six or eight different places. Soon after other troops were ordered from Fort Leavenworth, Kansas, and from Fort Riley, Nebraska, increasing the number to 2,000. There were already about 1,000 deputy United States marshals on duty under the order of the United States Court for the protection of the property of railroads operated by receivers, and this number was afterwards increased to over 3,000.

On July 5, Governor Altgeld of Illinois telegraphed the President of the United States a protest against the ordering of United States troops to Chicago without any request for them from the State authorities. It stated that there was no need of such interference and that Illinois had ample military forces for the preservation of order, and would furnish the Federal government with assistance, if required, elsewhere; that no militia had been called out at Chicago because they were not needed; that militia had been ordered to two other points in the state in answer to requests but it was found that there was no need of them there; that the local authorities were able to preserve peace and protect property at all points. The immediate withdrawal of the United States troops from active duty was asked.

President Cleveland answered briefly that the troops were sent, under authority of the Constitution and laws of the United States, to remove obstructions to the mails, and the transportation of inter-state commerce and to the execution of the process of the federal courts.

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On the following day, July 6, the mayor of Chicago asked Governor Altgeld to send immediately to Chicago such state troops as were available to aid him in restoring the peace and in suppressing and preventing violence to persons and property. Thereupon, the Governor ordered 2,000 of the militia into immediate service at Chicago, and within two or three days substantially the entire military force of the state was in active duty there.

On the 7th, President Debs, Grand Master Sovereign of the Knights of Labor joining with him, sent a protest to President Cleveland against the presence of United States soldiers. They claimed that the troops were being used to "coerce and intimidate peaceable working people into humiliated obedience to the will of their oppressors."*

On the 5th, 6th, 7th and 8th, the mobs were in control and serious rioting occurred at different points in Chicago. Depredation was done by wholesale. Thousands of freight cars were overturned and burned.

On July 8, President Cleveland issued a proclamation detailing the lawlessness existing, and practically declaring martial law in Chicago. There were now 11,000 men under arms there, beside the 3,100 policemen. Rioting continued a few days longer; the yards of two railroads with their buildings were burned; conflicts occurred between the mobs and troops. But the blockade had been raised on several lines at Chicago, and had been entirely broken by United States troops at Trinidad, Las Vegas, Raton and California points which had been held

* They further insisted that the troops were unnecessary and their presence was an unjust discrimination against the employes, and an infringement upon their liberty. "Now, sir, we pledge to you the power of our respective organizations, individually and collectively, for the maintenance of peace and good order and the preserving of life and property, and will aid in the arrest and punishment of all violators of the civil and criminal laws of state or nation."

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by mobs. Passenger trains were running again and a few freight trains.

On July 10, a special grand jury was impaneled, and the four officers of the American Railway Union were indicted for conspiracy to commit an offense against the United States.

On July 12th, the officers of the American Railway Union submitted to the General Managers a proposition of settlement. They offered to end the strike if the railroads would re-instate without prejudice all employes. The proposition was not considered. This marked the end of the railroad strike, though sporadic acts of violence occurred at a few places thereafter.

Daily, during the first ten days of July, President Debs telegraphed the local leaders and told the reporters that the American Railway union had practically won its fight to tie up all railroads throughout the west; and the *Railway Times* boasted that the Union had made the greatest fight in the history of labor conflicts in this country. (*Railway Times*, July 15th.) Since the failure of the strike and the indictment of its leaders, the officers of the American Railway Union have explicitly denied under oath any part in or responsibility for the unlawful acts that tied up the railroads, or that they were engaged in a combination or conspiracy to accomplish the admitted results.*

THE RESPONSIBILITY OF THE LEADERS FOR THE UNLAWFUL ACTS.

The leaders and their sympathizers have constantly insisted that the acts of violence, intimidation and depredation which were done at every place at which the trains were stopped were

* They were promptly arrested and released on bail. On the same day, President Debs issued an appeal to all striking employes and sympathizers to refrain from all acts of violence and to aid in maintaining law and order.

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unauthorized and disapproved. To the public this question is of paramount interest; and it is now the most important one to the leaders.

The illegality of this strike, it should be remembered, did not depend upon whether assaults upon person and property were made in support of it or not. Its avowed purpose to tie up and paralyze the railroads being illegal, *all acts* done in pursuit thereof were illegal. The responsibility of the leaders in an unlawful conspiracy is not limited to their individual deeds: it extends to all acts done by their confederates in furtherance of the common object.

But let us examine the claim that they forbade and disapproved all such acts. It is based upon the request frequently made in addresses and telegrams to "commit no violence," and on the fact, as claimed, that such acts were hurtful to the cause. That is the reason given by President Debs for urging that no act of lawlessness should be committed. The purpose of the instruction may fairly be interpreted in the light of this reason. President Debs intended that the strikers should do no acts that would injure the strikers. But all unlawful acts are not hurtful. The probable success of a strike depends upon the extent to which the employes quit and their places remain unfilled. Would threats, intimidation and personal violence committed secretly hurt the cause, if they proved more effective than moral suasion in getting men to quit and in keeping others from filling their places? This and all former railroad strikes have shown that these means carefully employed are efficient. No large strike has ever been fought without them. Leaders and led well knew this. The intention and meaning were plain when President Debs and Vice-President Howard said in public meetings that if men took the strikers' places they "should be made to walk the plank"; that the men should commit no acts of violence, but that scabs should be given "a

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dose of coupling pin and silenced forever;" and in their telegrams that every employe who refused to quit was "a traitor to the cause of labor," and "would be branded as a scab and treated as such." It did not tend to injure the cause for local committees to notify employes that it was for their interest to quit—that they could not afford to be "scabs." While Debs telegraphed constantly, "there are not scabs enough in the world to fill vacancies," he knew, as did the most ignorant of his followers, that the country was at that very moment filled with men eager to fill these places if they could do so safely.*

It was recognized as an essential factor in the struggle that "scabs" should be kept out. Threats of personal violence were therefore freely used, some times veiled, at others clearly expressed. They were always understood and were usually effective.

The avowed purpose was to stop completely all railroad business. The unlawful means used by the local rioters we know.

What was intended by such telegrams as these to the local leaders, if not such acts?—"Adopt measures to tie up Colorado Midland." "Keep everybody out; marshals cannot fill vacancies." "Do not interfere with mail trains in any manner." "Baltimore and Ohio officials are trying to intimidate their employes and are also looking for scabs in the Eastern states; *by all means have them shut off.*" "Do not be intimidated by injunctions, deputies, troops or other corporate tools." "No forcible interference with mail trains, but any man that handles trains or cars will be a scab." "Knock it to them hard as possible." "Do not let court or-

* The "declaration of principles" stated that 85 per cent. of the railway employes were outside of any organization, and that the land was "filled with scabs that swarmed in the highways and byways waiting anxiously and eagerly the opportunity to take their revenge by taking positions vacated by strikers." Constitution 1893, p. 8.

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der scare you; I have had order served on me." "Have your men stand pat; they will have to make many arrests before this strike is over." "You can not paralyze the world in a minute; do not let strong men become childish * * * you appear to pay more attention to newspapers than to messages."

If violence was sincerely deprecated, why was it not reproved? The official organ reported many of these acts of violence, but it never condemned them. From the beginning of the strike to this hour no leader has condemned even one of the manifold and notorious acts of assault and intimidation by strikers against persons desiring to remain in or to enter the service of the railroads. Would this have been the case if it were true that acts of intimidation and violence injured the cause of the strikers? If the depredations were widespread, or could be directly traced to the leaders, the effect would probably be injurious. But such would not be the effect of *peaceably* pulling coupling pins, and cutting out and side-tracking Pullman cars, and spiking switches, of *peaceably* blocking crossings with great crowds—with women and children in the foreground —so that no switching could be done without danger of killing the innocent. The object of the boycott was to stop the hauling of Pullman cars. Within moderate limits, whatever aided that purpose helped the cause. The order to cut out and "detrack" Pullmans required and resulted in violence and interference with railroad property. The position of the strikers was plainly this: commit all helpful acts of interference, but escape the clutches of the law, and particularly of the United States government. President Debs expressed it when he said at a public meeting of railroad men: "Do not molest mail trains, but prevent the running of Pullman cars at all hazards." These forms of cautious violence to persons and to property were daily committed. They were necessary to the success of the strike; for wherever ample protection was provided railroad

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operations were immediately resumed. If the leaders condemned all such violations of law, why did they complain of deputy marshals and United States troops? As Debs repeatedly telegraphed, troops could not run trains; and they did not attempt to. Neither did any of the strikers run trains on account of the troops. If there were not "scabs enough in the world to fill vacancies," and the delays were due solely to the quitting of the men, how could soldiers start the trains without the return of these strikers? Wherever the deputies or troops furnished full protection against the mobs, the tie-up ceased, although the strikers did not return to work.

No one doubts that the more flagrant acts of violence, which culminated in the rioting and in the burning of thousands of freight cars and other property at Chicago, would gladly have been prevented by the leaders. These were plainly hurtful to the cause. Nevertheless they were the natural and usual result of such a conflict as the directors of the American Railway Union deliberately waged. No widespread strike has long continued without such lawless accompaniments. When violent prejudices and passions are thus aroused, and are intensified by privation, suffering and the fear of defeat, it is impossible for the leaders to keep them within bounds, or to expect that their followers in prosecuting an unlawful struggle, will always know or heed the limits of usual lawlessness. All these were done to effect and continue the paralysis of railroad transportation. The responsibility of the leaders is not measured by their formal orders against violence, or limited even to the unlawfulness of the peaceable acts which they directly commended. It is rather measured by the power which they had to prevent and stop all lawlessness.

The proposition of settlement submitted to the General Managers on July 13th, is the most significant comment and evidence upon this question. The officers of the American Railway Union proposed to end the strike if the strikers were "re-

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stored to their former positions without prejudice, except in cases, if any there be, where they have been convicted of crime." They recounted the growth of the strike, "until now it involves or threatens not only every public interest, but the peace, security and prosperity of our common country. * * * Factory, mill, mine and shop have been silenced, and widespread demoralization has sway. The interests of multiplied thousands of people are suffering. The common welfare is menaced. * * * We conceive it our duty * * * to make extraordinary efforts to end the existing strife and approaching calamities whose shadows are even now upon us."

They stated in conclusion that the proposition was submitted "with the belief that its acceptance will result in the prompt resumption of traffic, the revival of industry, and the restoration of peace and order."*

Stripped of verbiage, the proposition was this: This strike was begun and has been prosecuted under our orders, and this calamitous condition has resulted in order to force you to force the Pullman Company to arbitrate. We will now abandon this purpose and call off our forces, and this business stagnation and widespread disorder will cease if you will let the strikers return to their work at former rates, without any reference to the Pullman strike. If not, "the existing strife" will continue and the "approaching calamities" will come.

These officers, afterward, in their sworn answers in the contempt proceedings, denied their authority to make this proposition or to control in any way the course of the strike. This was evidently an after-thought suggested by the changed conditions. Whatever their authority, no one can doubt—for they did not—their power to carry out their part of the proposition if it had been accepted. They were leaders in a conflict which they called a war—a conflict which they had begun and

* On the same day, President Debs being interviewed concerning this proposition, said: "We have decided to declare this strike off at once, provided the General Managers' Association will meet us a generous half way."

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directed throughout—and the power to control and to settle it was theirs necessarily and in fact.

But the real attitude of the American Railway Union and its officers toward acts of lawlessness had been already communicated to the members before this strike began. Such acts occurred in the Great Northern strike, and the *Railway Times* of May 1st, thus commented on them:

"The Times will pass by detailed mention of so-called acts of violence alleged to have been committed; the dumping out and resistance to scabs decorated with the U. S. marshal badge. * * * No reasonable law contemplates that strict observance of its letter can be expected at such times. * * * It is claimed by some that there are too many people in the world, and in making a selection to diminish population, the death of Plutocracy's Hessians would only be carrying out Darwin's law of the survival of the fittest."

President Debs complained to the Strike Commission because the United States Court prevented the officers from sending out orders and directing the fight. And Vice-President Howard said the strike was lost because the government did not keep aloof and let the strikers fight it out without interference. Yet neither the injunction nor the troops hindered in the slightest degree the doing of any lawful act.

WERE THE BOYCOTT AND STRIKE JUSTIFIABLE?

The strike began in the order to boycott Pullman cars for the purpose of coercing their owner. The directors and members of the American Railway Union co-operated in this purpose. A combination for such a purpose was and has always been an illegal conspiracy. The strike was a method of accomplishing the illegal purpose. It was aimed at the railroad companies to compel them, through fear of loss, to join in the conspiracy to injure the Pullman Company. As an instrument of the boycott, it was equally a conspiracy against the business and property of the railroad companies.

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After a year of unexampled depression, whose effects upon the railroads had been lessened somewhat by the World's Fair, only one railroad entering Chicago had made any general reduction in wages. To not one of them had its employes or the American Railway Union presented a claim of grievance. Not one had been asked to take any action in relation to the Pullman strike or notified of the proposed boycott. Without legal warrant, claim of grievance or formal notice, the proposed attack upon the railroads was publicly declared. These leaders called it "a sympathy strike"; that is, one growing solely out of sympathy with the Pullman employes. This sympathy was to be shown by avenging a thousandfold the grievances of the Pullman employes out of the unoffending and unconnected railroads.

A has a quarrel with B, and is, we will suppose, in the wrong. C, the friend of B, feels that A is in the wrong and at once proceeds to punish D, whom he knows to be a friend of A. Can a more immoral method of settling a purely moral controversy be imagined? If the Pullman Company, A, had done wrong, then it and it alone should suffer. Yet by this arrangement A (the Pullman Company) escapes punishment, while C (the railway employes)—who is friendly to B (the Pulman employes)—and D (the railroads) in no wise at fault, both suffer in their own possessions a hundred fold more than the wrongs of which B complains: wrongs which C has set out to redress by punishing D.

I am assuming that the Pullman Company was wholly wrong, although, as the Strike Commission found, wholly within its legal rights; that the American Railway Union might properly take sides with the employes—though not one of them was eligible to its membership; and that both the employes and the Railway Union were legally and morally warranted in prosecuting by all lawful means a strike against the Pullman Company. But the order of boycott

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changed the character of the conflict and the parties to it. The striking Pullman employes were unable even to help make the order effective; it was to be carried out wholly by employes of other companies. The American Railway Union decided to take up and carry through a fight in which the employes interested could have no part and the employes doing the fighting could have no interest. The only body of Pullman employes engaged in railroad service were excluded from membership, on account of their color, by the very convention that ordered the boycott. The members of the American Railway Union who were to enforce the order, were not Pullman employes. Therefore, they could not act against that company, but only against their employers, the railroad companies.

Could Cervantes carry code honor to a greater excess; or conceive a more striking illustration? The injured knight, who issues the challenge, is not to fight the offender. He selects a second to do the fighting. More, he selects a stranger whom the second shall fight. And the second gives the stranger no choice to accept or decline the challenge. His demand is simply this: be the champion of my friend and fight his fight, or defend yourself!

It was evident that this strike, in order to succeed, must stop railroad business, and paralyze the lines having contracts compelling them to haul Pullman cars; that, as a result, at least 100,000 men, depending upon their wages for the necessaries of life, would be idle for a time, and lose wages amounting to a million dollars a week; and that no additional wages or privileges would be obtained or even asked for them if the strike succeeded. Despite these facts and the inherent impossibility of winning such a fight, the American Railway Union plunged the railroad employes in fifteen states into a causeless strife and occasioned violence and riots which in their effect almost amounted to an open insurrection against not only law and order, but the laws and authority of the United States.

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Such a strike, ordered under such circumstances to accomplish such an unlawful purpose, using and certain to use such means, was a monstrous wrong.

It was unjust and in violation of the rights of the railroads and of the people using them. It discredited in the eyes of disinterested observers all labor organizations and all professions of high aims and all love of justice by labor leaders. It compelled the great body of wage earners, who are law-abiding, patriotic citizens, to appear to be arrayed against the laws as anarchists or rebels.

Few were able to distinguish, when their leaders denied a distinction, between a peaceable strike to redress a grievance against their employers, and a combination to destroy the business of such employers, unless they should join in an illegal boycott. This distinction, plain and well established in the law, has recently been emphasized by the decision of the United States Circuit Court of Appeals, reversing the decree of Judge JENKINS in the *Northern Pacific* case.* A distinction, however, which the Strike Commission failed to make in its detailed report. The moral effect upon wage-earners of such a conflict was most injurious. It appealed to moral sentiments and forces, but constantly disregarded not only the rights of the railroads and of the public, but also of the vast number of railroad men who needed the wages they were earning. Begun in the avowed interest of industrial freedom, the conflict was waged by violently coercing employes to leave their work.

In the heat of such a contest, socialistic sophistries are accepted as truisms. The noble sentiment of brotherhood is perverted, and the careful thought of industry is addled or overborne by the wild theories of labor demagogues. It confuses the minds and the morals of honest people, and endangers the foundations of society.

* *Arthur et al.* v. *Oakes et al.*, 63 F. R., 310, 320, HARLAN, C. J.

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The strike was a mistake even as a matter of policy; both for the American Railway Union and for the cause of labor.

Strikes and boycotts are not defended—certainly not by labor organizations—except upon the ground that the laws are inadequate to protect employes against the avarice or selfish indifference of employers; that they are labor's only weapons, to be discarded as soon as its rights are recognized and protected by law. The American Railway Union and the Strike Commission agree in calling them crude and barbaric instruments. Their use uniformly results in wanton and extreme waste of the resources of both parties to the conflict. Therefore, they should be used only where the cause is just, where the wrong inflicted by the employer is flagrant, where the moral question involved is plain. The strike should directly raise this question and exclude all others, and there should be a fair chance of success. In the Pullman strike, the question was definite and the grievance clear. When the order of boycott was made, the original issue was dropped. The fight was thenceforth between the American Railway Union and the attacked railroads. The question then was whether the railroad companies, under compulsion, should surrender their independence, break their contracts and take up the fight against the Pullman Company, or not. There never was a fair probability of the success of the Pullman strike, nor a possibility of the success of the railroad strike. A strike rarely succeeds on a falling market, or fails on a rising market. The history of labor contests shows few exceptions to this rule. The leaders of the American Railway Union stated it as their reason for originally opposing the Pullman strike. In afterward taking it up, and in beginning the railroad strike, they recklessly braved this rule.*

* Concerning the latter, Debs testified before the Strike Commission:

"I gave my hearty concurrence to the movement. I did not order it, however, nor did I have any voice in ordering it. But, had I had a voice, I should have ordered it." Chicago *Tribune*, August 20, 1894.

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It was at a time of unusual industrial depression. The indications of this were nowhere greater than at Chicago. It was hardly four months since an army of unemployed men had filled its streets, dependent upon charity and the fraternal aid of labor organizations for their daily bread. On this account the railroad strike was foredoomed to failure.

But there was an even stronger reason against its possible success. The strike to enforce the boycott order involved and challenged the fundamental right of the railroads to conduct their business in a lawful manner, without interference on the part of labor organizations with which they had no dispute. If the car builders and laundry girls at Pullman could compel the railroads to attack the Pullman Company because they hauled its cars, the machinists in any locomotive works could have compelled them to boycott the locomotives made there; cigarmakers' unions could have compelled them to boycott in their dining cars any brand of cigars; and so on through all the manufactured articles which railroad companies buy or use.

The railroads not only could not afford to yield to such an unreasonable and unlawful demand, but they lacked the legal power to do so. The Pullman Company could have promptly enjoined them from violating their contracts; and their stockholders could have interfered to prevent a violation of contract that must result in loss to the company. It was inherently impossible, no matter how complete the paralysis might be, that the railroads should ever yield to this threat.

The avowed and sole purpose of the strike made it impolitic. From beginning to end it was an attempt to compel the Pullman Company to arbitrate. The strikers sought to create, and enforce at the same time, a compulsory arbitration law. Yet, at the conclusion of the contest—in which employes had lost several millions of dollars in wages, and the employers many

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millions of dollars in profits—this prime and sole purpose of compelling arbitration was abandoned; and when the Strike Commission met a month later these same leaders testified before it that they were opposed to a compulsory arbitration law, and the Federation of Labor, at its recent meeting in Denver, took the same position.

WHAT RIGHT HAD THE UNITED STATES TO INTERFERE?

Recall the situation. The throttling of all railroad activities affected many important interests. The railroads were losing their usual incomes and were put to unusual and unproductive expenses for the protection of their property. The depredations entailed further losses. The Pullman Palace Car Company suffered from the stoppage of cars and the decrease in the number of passengers upon the cars in operation. As to these interests, it is clear that property rights were being destroyed and that the law should and does afford relief against such wanton damage. These private wrongs furnished no moral or legal ground for governmental interposition.

But there were public rights and interests that were invaded. Thousands of persons desiring to travel and to have personal property transported upon the railroads, found themselves deprived against their wish and that of the common carriers of the right to such transportation.

The inhabitants of at least one great city found their supplies—the necessaries and conveniences of life—suddenly curtailed. The practical effect of the strike was as if some monopoly or combination of dealers had engrossed the provision and fuel market and arbitrarily raised the cost of these necessities from ten to fifty per cent. Jobbers and manufacturers were unable to deliver the articles which they had sold. The entire contractual relations of commerce in the region affected

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by this strike were demoralized. The stoppage of mail trains deprived the people of the means of friendly communication and assistance. It destroyed the main channel of communication between great depots of commerce and manufacture and their customers. The United States government conducting the mail service as an agent of the people, was hindered and restrained from the performance of this duty. All legal considerations aside, ought not the government to have and exercise the power to summarily remove all obstructions to the performance of duties which it owes to the whole people? If, as Congress has declared, the railroads are national highways for the transportation of mails and United States troops, if they are under the Interstate Commerce Act, public highways for interstate commerce under national direction and control, is not the government bound by every moral and political reason to keep these highways open for those purposes? The right and the duty are too manifest to be denied.

The discussion has arisen regarding the means which the government may properly employ to remove such obstructions.

Three methods suggest themselves:

(1.) By using the physical power of the nation—its army—to summarily remove the obstructions and to prevent further interference.

(2.) By appealing—as an individual properly might do—directly to the courts, for the protection of all these rights from unlawful interference by enjoining the wrong doers.

(3.) By proceeding criminally against the persons causing the obstructions. This would not repair or stop the injury or prevent further obstructions except so far as the punishment might have a deterrent effect.

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THE USE OF UNITED STATES TROOPS.

The President of the United States, when Congress is not in session, controls the physical arm of the United States—its military and naval forces. He is clothed by the Constitution with authority to use that power upon his own initiative and judgment to resist physical assaults upon the life, authority or property of the United States. These assaults must be directed, however, against its sovereignty. Resistance merely to its control of its property or to its assertion of its power, and not intended to question its sovereignty, would not warrant the exercise of this prerogative by the President without specific authority from Congress. That authority has been given to resist interference, and to protect government property and the rights of the people under the Constitution:

"Whenever insurrection, domestic violence, unlawful combinations or conspiracies in any state so obstruct or hinder the execution of the laws * * * as to deprive any person of any of the rights, privileges or immunities or protection named in the Constitution * * * and the constituted authorities of such state * * * fail in or refuse protection of the people in such rights; * * * or whenever any such insurrection, violence, unlawful combination or conspiracy opposes or disturbs the laws of the United States, or the due execution thereof or impedes or obstructs the due course of justice under the same."*

*U. S. R. S., Sec. 5,299, Act of April 20, 1871. The President is the judge of the need of exercising this power; and his decision is final.

Martin v. *Mott* 12 Wheat., 19, 31.

Luther v. *Borden*, 7 How., 1, 43.

According to the report of the Strike Commission, the President ordered the troops to Chicago for the following purposes:

(1.) To protect Federal property.

(2.) To prevent obstruction in the carrying of the mails.

(3.) To prevent interference with the inter-state commerce.

(4.) To enforce the decrees and mandates of the Federal Courts. *Report Strike Commission, page 16.*

The state of affairs at Chicago at that time certainly warranted the President in deciding that troops were necessary for the latter three of the purposes named.

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His authority and duty to take such action in view of the facts arose from the necessary power of the nation to vindicate through the President its sovereignty over the subjects named, as well as from the statute already quoted. As was said by the Supreme Court (in *ex parte Siebold*, 100 U. S., 371, 395):

"We hold it to be an incontrovertible principle that the government of the United States may by means of physical force exercised through its official agents execute on every foot of American soil the powers and functions that belong to it. * * * The government must execute its powers, or it is no government."

The primary purpose of the combination and conspiracy, formed and directed by the American Railway Union and embracing beside its members thousands of others many of whom had never been engaged in railway service, was to compel the railroad companies to violate their contracts to haul Pullman cars. Its subsequent purpose was to speedily disable the railroads engaged in inter-state transportation west of the Ohio, and thereby to prevent them from performing their duties as common carriers; to deprive them of the rights and privileges granted them by their charters under the laws of the various states and of the United States.

As the result of such combination and conspiracy, there was domestic violence upon the lines of the Rock Island, Michigan Central, Illinois Central, and of other railroads at Chicago. These companies, their officers and employes and other persons desiring to become their employes, were denied the right —which, by United States statutes, is also a duty—to operate such railroads as common carriers of inter-state commerce; and they were deprived of the protection against interference to which they were entitled under the laws of Illinois. It is further certain that such combination and conspiracy opposed and obstructed the laws of the United States and the due course of justice under the same; and that the constituted authorities of Illinois failed to provide proper protection. These facts were

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obvious and notorious. They were ample warrant for sending United States troops to Chicago, and to other places similarly affected, "for the suppression of such insurrection, domestic violence and combinations."

When the first troops arrived, a day and a half after the order of injunction, trains carrying United States mails were held by mobs or physical obstructions upon the tracks of at least three railroads at Chicago. Inter-state commerce had been stopped upon all. Over 3,000 deputies acting under the personal direction of the United States Marshal, assisted by deputy sheriffs and the police of Chicago, had been unable to remove these obstructions or effectively to overcome this interference and resistance by the numerous mobs of strikers and their sympathizers. Those who were best able to judge of the need of such action by the President were most pronounced in approving it.*

Police Superintendent Brennan testified before the Strike Commission:

"So far as I understood there had not been very much violence or depredations committed prior to the 3rd of July, when the troops arrived. *At that time the indications looked bad, and the arrival of the troops I think was opportune.* * * * My police force had been on duty constantly for nine or ten days. * * * I had at that time 3,000 or 3,100 men in service, and every one of them was engaged in that particular business of preventing violence. * * * The trouble extended all over the city."

The Strike Commission, while not finding much to condemn in the beginning and conduct of the strike, found that the

*The Mayor, Police Superintendent and police force of Chicago were believed to be kindly disposed towards the strikers. They certainly were not hostile to them. The City Council appointed a committee to mediate between the strikers and the Pullman Company. The Chief of Police discharged an officer guarding railroad property who threw a switch at the request of a railroad officer; and the Mayor was the bearer to the General Managers' Association of the proposition of July 12th, delivered the 13th.

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conditions and the law amply warranted this action by the President.*

And the Governor of Illinois, after vigorously protesting that Federal troops were not needed, ordered 4,000 of the state militia to Chicago at the request of its mayor, to put down the mob, restore order and protect property.

THE INJUNCTION.

Before calling out the troops, it was hoped that a resort to the courts for a writ of injunction against these obstructions might afford relief.

While personal and corporate interests were widely and disastrously affected, they were so numerous and the organized resistance was so great, that no practical restraint or protection could be obtained without a great multiplicity of suits. Besides the interests of the government which were equally affected were paramount. It owned the mail bags, it had a property interest in the carrying of the mails to the extent of its postal revenues; it had, in the power granted by the Constitution and exercised in Congressional legislation, made the railroads post roads for the transportation of the mails and troops, and public highways for the transportation of inter-state commerce, and as such it had taken them under its control. Now, those post roads were stopped, the mails were held, the highways of inter-state commerce were obstructed. The injury was inflicted, and further injuries were threatened, by an organization without corporate existence or property, and by a combination of persons who were wholly insolvent. For the damages inflicted and threatened, courts of law afforded no remedy. It is clear that any individual whose property rights were thus affected should have and could have relief

*Report Strike Com., p. 41.

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by injunction. It is clear that the acts of interference and obstruction were all both wrongful and illegal.

The bill filed by the United States on July 2, alleged that the American Railway Union and its officers, naming them, had entered into a combination and conspiracy embracing a great number of persons, members of that organization and others whose names were unknown, to tie up and paralyze certain specified lines of railroad, 22 in number, and to prevent them from performing their usual duties as common carriers of inter-state commerce and from transporting the United States mails; that the conspirators, many thousands in number, to accomplish such unlawful purpose, by threats, intimidation, force and violence against the employes of said railroad companies engaged in said business, and by spiking switches, derailing cars and the like, had already seriously interfered with their business of transporting freight and passengers between the states and of carrying the United States mails, and in many instances had completely checked the same. That the conspirators had gathered in large mobs upon the lines of said railroads, and were endeavoring by violence, intimidation, threats and persuasion to induce the employes of such railroads to disobey the orders of their employers and to refuse to perform their accustomed duties, and to quit the service in such business of inter-state transportation and the carrying of the mails; and by like means were preventing and attempting to prevent other persons desirous of entering such service from doing so, and were threatening to still further interfere by the means aforesaid with the operation of trains and cars by said companies engaged in inter-state transportation until they should completely tie up and paralyze the same.

The injunction was prayed against the American Railway Union and its officers, naming them, and thirteen other persons, naming them, and all other persons whomsoever combining or conspiring with the defendants named, commanding them to

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refrain from all the acts and doings complained of and threatened.

The bill was filed on the morning of July 2d, in the name of the United States, by the District Attorney and by Special Counsel retained for that purpose, under the direction of the Attorney General. United States Circuit Judge, WOODS, and District Judge, GROSSCUP, of the Seventh Circuit, granted an order of injunction, in accordance with the prayer of the bill except in one particular.*

*The material portions are as follows: "It is ordered that a writ of injuction issue out of and under the seal of this court commanding the said defendants, Eugene V. Debs, George W. Howard and L. W. Rogers and the American Railway Union, Sylvester Keliher" and thirteen others, naming them, "and all persons combining or conspiring with them, and all other persons whomsover, absolutely to desist and refrain from in any way or manner interfering with, hindering, obstructing or stopping any of the business of any of the following named railroads, to-wit:" naming the twenty-two (22) lines of railroad in Chicago as common carriers of passengers and freight between or among any states of the United States, and from in any way or manner interfering with, hindering, obstructing or stopping any mail trains, express trains or other trains, whether freight or passenger, engaged in inter-state commerce, or carrying passengers or freight between or among the states; and from in any manner interfering with, hindering or stopping any trains carrying the mail; and from in any manner interfering with, hindering, obstructing or stopping any engines, cars or rolling stock of any of said companies engaged in inter-state commerce, or in connection with the carriage of passengers or freight between or among the states; and from in any manner interfering with, injuring or destroying any of the property of any of said railroads engaged in or for the purposes of, or in connection with, inter-state commerce, or the carriage of the mails of the United States, or the transportation of passengers or freight between or among the states; and from entering upon the grounds or premises of any of said railroads for the purpose of interfering with, hindering, obstructing or stopping any of said mail trains, passenger or freight trains engaged in inter-state commerce, or in the transportation of passengers or freight between or among the states, or for the purpose of interfering with, injuring or destroying any of said property so engaged in or used in connection with inter-state commerce or the transportation of passengers or property between or among the states; and from injuring or destroying any part of the tracks, roadbed or road, or permanent structures of said railroads; and from injuring, destroying, or in any way interfering with any of the signals or switches of any of said railroads; and from displacing or extinguishing any of the signals of any of said railroads, and from spiking,

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The real scope of this order has been generally misstated and misunderstood, and the error has been emphasized by dub-

locking or in any manner fastening any of the switches of any of said railroads, and from uncoupling or in any way hampering or obstructing the control by any of said railroads of any of the cars, engines or parts of trains of any of said railroads engaged in inter-state commerce, or in the transportation of passengers or freight between or among the states, or engaged in carrying any of the mails of the United States; and from compelling or inducing or attempting to compel or induce, by threats, intimidations, persuasions, force or violence, any of the employes of any of said railroads to refuse or fail to perform any of their duties as employes of any of said railroads in connection with the inter-state business or commerce of such railroads or the carriage of the United States mail by such railroads, or the transportation of passengers or property between or among the states; and from compelling or inducing or attempting to compel or induce by threats, intimidation, force or violence any of the employes of any of said railroads who are employed by such railroads, and engaged in its service in the conduct of inter-state business or in the operation of any of its trains carrying the mail of the United States, or doing inter-state business or in the transportation of passengers and freight between and among the states, to leave the service of such railroads; and from preventing any person whatever, by threats, intimidation, force or violence, from entering the service of any of said railroads and doing the work thereof, in the carrying of the mails of the United States, or the transporation of passengers and freight between or among the states; and from doing any act whatever in furtherance of any conspiracy or combination to restrain either of said railroad companies or receivers in the free and unhindered control and handling of inter-state commerce over the lines of said railroads, and of transportation of persons and freight between and among the states; and from ordering, directing, aiding, assisting or abetting in any manner whatever, any person or persons to commit any or either of the acts aforesaid.

"And it is further ordered that the aforesaid injunction and writ of injunction shall be in force and binding upon such of said defendants as are named in said bill from and after the serving upon them severally of said writ by delivering to them severally a copy of said writ or by reading the same to them and the service upon them respectively of the writ of subpœna herein, and shall be binding upon said defendants, whose names are alleged to be unknown, from and after the service of such writ upon them respectively by the reading of the same to them or by the publication thereof by posting or printing, and after service of subpœna upon any of said defendants named herein shall be binding upon said defendants and upon all other persons whatsoever who are not named herein from and after the time when they shall severally have knowledge of the entry of such order and the existence of said injunction."

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bing it an "*omnibus*" injunction. An examination of the order shows that it consists of two parts, though they are not separated. The first portion enumerates the particular things which the defendants may not do, and those things are all in themselves unlawful and injurious. But among them the persuading of employes to quit the service of the railroads is not included; the only use of the word "persuade" is in the clause forbidding the defendants to induce employes in the service of said railroads to refuse to perform their duties as employes of said railroads engaged in inter-state commerce or the carriage of the United States mails. It does not forbid them to use persuasion to induce employes to quit the service.

The second portion of the order, embracing the last two clauses, forbids the doing of any act—even though it be lawful in itself—in furtherance of any conspiracy or combination to restrain either of the railroads from freely controlling and handling inter-state commerce, and also forbids the ordering, directing, aiding or abetting any person to commit any or either of the acts aforesaid.

Whether the government could properly file a bill for such relief is one with the question whether the United States Circuit Court could properly grant the injunction upon such a bill. Three distinct grounds for equitable jurisdiction and relief at the prayer of the United States have been urged.

1. The United States, as a carrier of the mails, may be regarded as an agency distinct from its political character. As such it has a property interest in the mail bags and in the mails as a source of revenue. (*Seabright* v. *Stokes*, 3 How. U. S., 151, 169.) It also has a possessory interest in them as bailee. These are such interests as it is entitled to have a court

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of equity protect against injuries that cannot adequately be redressed at law.

2. That the United States courts of equity have jurisdiction to restrain public nuisances and purprestures upon a bill or information filed by the Attorney General. This power has frequently been exercised by English chancery courts, and has been recognized by the Supreme Court of the United States.*

Mayor v. *Alexandria Canal Co.*, 12 Pet., 91.
Pa. v. *Wheeling Bridge Co.*, 13 How., 520, 563, 565.
U. S. v. *Duluth*, 1 Dillon, 469.
U. S. v. *Mississippi, etc., Co.*, 3 F. R., 548, Nelson, J.
Heerman v. *Beef Co.*, 1 F. R., 145.
U. S. v. *N. Bloomfield Co.*, 53 F. R., 625, Gilbert, C. J.
Coosaw Mining Co. v. *S. C.*, 144 U. S., 550, 565.
High on Injunctions, Sec. 1570.
Atty. Gen. v. *Eau Claire*, 37 Wis., 400. See, also,
Crowder v. *Linkler*, 19 Ves., 617.
Atty. Gen. v. *Nichol*, 16 Ves., 338.

A *public nuisance* is "such an inconvenience or troublesome offense as annoys the whole community in general and not some particular person."

4 Bl. Com., 166.
Wood on Nuisances, p. 31.

A *purpresture* is an encroachment upon lands, or rights and easements incidental thereto, belonging to the public * * * an encroachment upon navigable waters.

Wood, p. 107.

It is, therefore, a form of public nuisance, and the remedy "for purpresture simple is by information in equity at the suit of the Attorney-General or other proper officer."

Wood, p. 117.
People v. *Vanderbilt*, 28 N. Y., 386.
New Orleans v. *U. S.*, 10 Pet., 622.
Atty.-Gen. v. *Forbes*, 2 My. & C., 123.
Atty.-Gen. v. *Cohoes Co.*, 6 Paige, 133.
Mohawk v. *Utica*, 6 Paige, 556.
High on Inj., Sec. 759.

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This jurisdiction is of very ancient date, and is recognized in every standard work on equity jurisprudence.*

While such offenses may be abated by indictment, the civil remedy, by injunction upon the petition of the Attorney General, is more ample. The reasons as stated by Mr Justice STORY are that the remedy is prompt, avoids vexatious litigation, and protects against threatened and future acts through all time. Though a purpresture or public nuisance be a

*STORY states it thus: "SEC. 923. In cases of public nuisances properly so called an indictment lies to abate them and to punish the offenders. But an information also lies in equity to redress the grievance by way of injunction. The instances of the interposition of the court, however, are (it is said) rare, and principally confined to informations seeking preventive relief. Thus informations in equity have been maintained against a public nuisance by stopping a highway." Citing

Craig v. *People*, 47 Ill., 487.

"SEC. 924. The ground of this jurisdiction of courts of equity in cases of purpresture as well as of public nuisances, undoubtedly is their ability to give a more complete and perfect remedy than is attainable at law, in order to prevent irreparable mischief, and also to suppress oppressive and vexatious litigations. In the first place, they can interpose where the courts of law cannot, to restrain and prevent such nuisances as are threatened or are in progress, as well as to abate those already existing. In the next place, by a perpetual injunction the remedy is made complete through all future time; whereas an information or indictment at the common law can only dispose of the present nuisance, and for future acts new prosecutions may be brought. In the next place, the remedial justice in equity may be prompt and immediate before irreparable mischief is done; whereas at law nothing can be done except after a trial, and upon the award of judgment. In the next place, a court of equity will not only interfere upon information of the Attorney General, but also upon the application of private parties directly affected by the nuisance."

2 Story's Eq. Jur., §§ 921, 923, 924.
High on Injunctions, Sec. 759.
Pomeroy Eq. Jur., Sec. 1349.
1 Dan. Ch. Pr., 7, 8.
2 *Idem.*, p. 1636.
Mitford's Eq. Pl., 104, 117, 196.

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criminal act, this does not affect the power of equity to restrain it.*

It has, even as against the whole people, a purely civil aspect. It is a continuing infringement upon the right and liberty of every person desiring to use the highway or common or navigable stream upon which an encroachment has been made or an obstruction placed. Such civil injury to the public is remediable at the prayer of the public represented by the Attorney General exactly as a public nuisance may be restrained at the prayer of an individual specially damaged thereby. The jurisdiction is based upon this distinctly dual character of such an offense.

But it is claimed that the facts alleged in the bill filed did not show that such purpresture or public nuisance existed or was threatened. Are the railroads carrying the mails and inter-state commerce, public highways? I need only summarize the reason and authority in support of the proposition so admirably stated in the opinion Judge WOODS in the contempt case arising under the injunction.†

The Constitution gives Congress exclusive control over inter-state commerce, and the authority to establish post roads.‡

By the Inter-state Commerce Act, Congress undertook to exercise its power of regulative control over inter-state transportation.

Railways thus became, like navigable waters, subject to governmental control.

*_The State ex rel._ v. _Crawford_, 28 Kan., 726, 735, _and cases there cited._

†_U. S._ v. _Debs et al._, 64 F. R., 724, 742, 745.

‡U. S. Const. Art. 1, Sec. 8, clauses 3, 7.

Inter-state Com. Act, amended Mar. 2, 1889; Feb. 10, 1891, sections 1, 3, 7, 8, 10, 11, 16, 17.

Cherokee Nation v. _Kansas Ry._, 135 U. S., 641, 657.

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They supplement the instrumentalities by which inter-state commerce is carried on. They are, in the language of the Supreme Court, a constituent part of commerce itself.*

The obstruction, therefore, of a railroad engaged in transporting the mails or inter-state commerce, or a restraint upon its free operation in performing such service, is an encroachment upon the public highway, created for the benefit of the people, which the national government has the right, and is charged with the duty, to keep free and open.

The bill filed by the government showed that obstructions and restraints of unprecedented magnitude already completely blocked the passage of inter-state commerce upon a score of such highways, and that the creation of further obstructions was threatened.

The Supreme Court of Illinois has twice recognized the jurisdiction of chancery to enjoin at the prayer of the state obstructions to highways and waterways alike. And no reason can be given why this jurisdiction should exist for the protection by injunction at the prayer of the state of the rights of the public in a country road, that does not apply with at least equal force in favor of the protection, by injunction at the prayer of the government, of the rights of the larger public to free highways for the transportation of inter-state

*STRONG, J., in *State Freight Tax*, 15 Wall, 232, 275.

In *Pensacola Tel. Co.* v. *Western Tel. Co.*, 96 U. S. 1, 9, Mr. Chief Justice WAITE said: "They (powers of government over mails and commerce) extend from the horse with its rider to the stage coach, from the sailing vessel to the steamboat, from the coach and the steamboat to the railroad, and from the railroad to the telegraph, as these new agencies are successively brought into use to meet the demands of increasing population and wealth. They were intended for the government of the business to which they relate, at all times and under all circumstances."

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commerce and the United States mails. In both cases, the general public has merely an easement. If the owner of the fee can be restrained from closing a public road, the owner of a railroad engaged in inter-state transportation can be likewise restrained from depriving the public of its right to use the railroad for the transportation of freight and passengers between the states.*

3. The third basis for equitable jurisdiction at the prayer of the United States is the act as found in the Act of July 2, 1890, popularly known as the Anti-Trust Act. Section 1 makes every "combination in the form of trust or otherwise, or *conspiracy in restraint of trade or commerce among the several states*" illegal; and every person who enters into such a conspiracy is guilty of a misdemeanor.

*In *People* v. *The City of St. Louis*, 5 Gilm., 673, a bill was filed by the State's Attorney for an injunction to restrain St. Louis from obstructing the eastern channel of the Mississippi river which was within the State of Illinois. A perpetual injunction was granted and sustained.

In *Craig* v. *The People, ex rel.*, 47 Ill., 487, 496, the owners of a plank toll road from Chester to Randolph in Randolph County, which had never been used by the public except by paying toll, gave notice that it would be closed unless purchased by the county; a bill was filed in the name of the People by the State's Attorney to enjoin them from closing this road. The injunction was sustained. BREESE, J. said:

"It is true an action at law would lie against these appellants, should they obstruct the road, and also for continuing the obstruction after notice to remove it. But the remedy on the facts before us would not only be tardy, but wholly inadequate. Intercourse between the settled portions of the county and the county-seat would be almost wholly interrupted, the citizens put to great inconvenience and injuries inflicted, which, though in particular cases might be trifling, yet *in the aggregate would be too grievous to be borne. It would be a monstrous public nuisance*, to prevent which full power is lodged in a court of chancery, by calling into exercise its restraining power. With that powerful arm the whole wrong can be at once grasped and the injury prevented."

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Section 4 expressly gives the United States Circuit Courts jurisdiction to prevent violations of the act.*

In determining whether the bill gave the court jurisdiction to grant the injunction under the act, two questions arise:

(1.) Does this act apply to a combination or conspiracy among railroad employes, having for its object the interruption and stoppage of railroad transportation of inter-state commerce?

(2.) Is section 4, which gives the United States Circuit Courts jurisdiction to restrain the commission of such misdemeanors, constitutional?

(1.) Much has been said of the circumstances which led to the passage of this act. It has been urged that its avowed, and evidently its sole, purpose was to render illegal under the laws of the United States those trusts and monopolies which were unlawful at common law, and which had been forbidden by the statutes of many states. That it was aimed against

*The relevant portions of the act are as follows: CHAP. 647. "AN ACT TO PROTECT TRADE AND COMMERCE AGAINST UNLAWFUL RESTRAINTS AND MONOPOLIES:

SEC. 1. Every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several states, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor. * * *

SEC. 4. The several Circuit Courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under direction of the attorney-general, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case, and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises."

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capitalists and corporations forming monopolies, combinations or trusts, which tended to monopolize or unlawfully restrain any article of inter-state commerce.

The discussion accompanying the passage of the bill through Congress is referred to as indicating that Congress had no thought of legislating against combinations and conspiracies of workingmen, formed for whatever purpose. It is true that it was directed chiefly against trusts and monopolies, and that little was then said or thought of the possible effect upon inter-state commerce of such a conspiracy as was described in the bill. The possible effect of the bill, as originally introduced and as finally enacted, upon such conspiracies was not overlooked. An amendment was offered distinctly providing that the act should not apply to such combinations. That amendment was not adopted. This alone might indicate that Congress intended the bill to have the widest scope; but it was urged against this amendment that it was superfluous because the act plainly did not apply to such a combination or conspiracy. But this method of interpreting a legislative act is not followed implicitly by the courts. In fact, it is not a rule of interpretation, and is only countenanced for the suggestive aid it may sometimes bring in the application of the established rules of construction. It will never be followed where it leads to an interpretation different from the plain meaning of the words used. It will never be applied against the plain meaning of an act to limit its scope.

Nothing can be added to the conclusive reasoning of Judge Woods upon this point.*

*Woods, J., in *U. S.* v. *Debs et al.*, Dec. 14, 1894; 64 F. R., 724, 747–749.

"I have no doubt but that this statute, in so far as it is directed against contracts or combinations in the form of trusts, or in any form of a 'contractual character,' should be limited to contracts and combinations such, in their general characteristics, as the courts have declared unlawful. But to put any such limitation upon the word conspiracy is neither necessary

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The act plainly forbids any combination or conspiracy in restraint of inter-state commerce. Railroads between the states are constituent parts of that commerce. They are its

nor, as I think, permissible. To do so would deprive the word of all significance. It is a word whose meaning is quite as well established in the law as the meaning of the phrase 'in restraint of trade,' when used, as commonly if not universally that phrase has been used, in reference to contracts.

"For like reasons I am unable to regard the word 'commerce' in this statute as synonymous with 'trade' as used in the common-law phrase, 'restraint of trade.' In its general sense trade comprehends every species of exchange or dealing, but its chief use is 'to denote the barter or purchase and sale of goods, wares and merchandise, either by wholesale or retail,' and so it is used in the phrase mentioned. But commerce is a broader term. It is the word in that clause of the Constitution by which power is conferred on Congress 'to regulate commerce with foreign nations and among the several states, and with the Indian tribes.'

"The facts of this case suggest illustrations of the impropriety as well as the inconsistency of putting upon the statute the restrictive construction proposed. If, for example, the manufacturers of other sleeping-cars in their own interest should enlist the brakemen and switchmen, or other employes of the railroads, either individually or in associated bodies, in a conspiracy to prevent or restrain the use of Pullman sleepers by refusing to move them, by secretly uncoupling or by other elusive means, the monopolistic character of the conspiracy would be so evident that, even on the theory that the statute is aimed at contracts or combinations intended to engross or monopolize the market, it would be agreed the offense ought to be punishable. But if in such a case the officers or agents of the car companies, who might or might not be capitalists, would be individually responsible for violating the statute, upon what principle could the firemen or switchmen be exempt?

"The persistent effort of the defendants, as the proof shows, was to force the railroad companies—the largest capitalists of the country—to co-operate, or at least to acquiesce, in a scheme to stop the use of Pullman sleepers, and for a time they had the agreement of a manager and other officers of one road to quit the use of the noxious cars, perhaps a qualified submission of the officers of another road or two to the same dictation. Does the guilt or innocence of the defendants of the charge of conspiracy under this statute depend on the proof there may be of their success in drawing to the support of their design those who may be called capitalists, or does it depend upon the character of the design itself and upon what has been done towards its accomplishment by themselves and by those in voluntary co-operation with them, from whatever employment or walk in life?"

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vehicles and instruments. The Inter-state Commerce Act is an assertion of federal control over them as such. Its provisions compelling the railroads to furnish connecting lines facilities for interchange of freight and to make such interchange without breaking bulk, indicate the purpose of national supervision, and that restraints upon such transportation are restraints of inter-state commerce. Penalties are denounced against every combination or conspiracy in restraint of commerce between the states. If capitalists in Chicago had formed a combination to engross the provision market there, by temporarily shutting off all shipments from outside, and had enlisted the service of the American Railway Union in support of their plan, the monopolistic character of the conspiracy would be plain. If the railroad employes had used in support of such a conspiracy the methods they employed last summer, the legal character of their acts would not have been different from that of the capitalists with whom they were conspiring.

As suggested by Judge WOODS, the legal character of this conspiracy and the responsibility of its participants was exactly the same as though it had been formed by other palace car companies for the purpose of gaining control of the sleeping-car business of the United States by excluding the Pullman cars.

This precise question arose in the proceedings begun by the United States to enjoin a combination of draymen and others at New Orleans in November, 1892. District Judge BILLINGS granted an injunction; and his order was affirmed by the United States Circuit Court of Appeals for the Fifth Circuit.*

District Judge SPEER of the same Circuit held,† in proceed-

**U. S.* v. *Workingmen's Amalgamated Council*, 54 F. R., 994.
Workingmen's Amalgamated Council v. *U. S.*, 57 F. R., 85; 6 C. C. A., 258.

†*Waterhouse* v. *Comer*, 55 F. R., 149,

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ings upon a petition of a committee of the Brotherhood of Locomotive Engineers asking that the receivers of a railroad be directed to enter into a contract with them, that a rule of that order requiring them to strike under certain circumstances was a violation of this act.

Circuit Judge PUTNAM has dissented, from this view.*

In the recent case of *U. S.* v. *Phelan*, in a proceeding to punish as a contempt of court the violation of an order of injunction similar to that issued at Chicago, Circuit Judges TAFT and LURTON held that this act was clearly applicable to the conspiracy of last summer, and they referred with dissent to the opinion of Judge PUTNAM.†

(2.) The constitutionality of Section 4 depends upon the considerations mentioned in the discussion of the jurisdiction of courts of chancery. Congress has no power to give United States courts jurisdiction over matters that were not cognizable in the English courts of chancery. The act makes such a conspiracy a misdemeanor. Courts of equity—as a general rule—have not jurisdiction to restrain a crime. Therefore, it is argued, Section 4 is unconstitutional. But as has been already shown, public nuisances and purprestures were crimes at common law, and were cognizable in equity at the suit of the sovereign. The discussion need not be extended. Its constitutionality has been sustained in the United States courts wherever the question has been raised. Three Circuit Courts and two Circuit Courts of Appeal have upheld it.‡

* *U. S.* v. *Patterson*, 55 F. R., 655.

† *U. S.* v. *Phelan*, 62 F. R., 803. See, also,
In re Grand Jury (S. D. Cal.), 62 F. R., 840, MORROW, D. J.
In re Grand Jury (S. D. Cal.), 62 F. R. 834, ROSS, D. J.
U. S. v. *Agler* (D. Ind.) 62 F. R., 824, BAKER, D. J.

‡ *U. S.* v. *Jellico*, 46 F. R., 434. KEY, D. Judge.
U. S. v. *Patterson*, 55 F. R., 605. PUTNAM, C. Judge.
Workingmen's Amalgamated Council case, supra.
Blindell v. *Hagan*, 54 F. R., 40.
Hagan v. *Blindell*, 56 F. R., 696.

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Upon these grounds, the United States District Attorney, under the direction of the Attorney General, prayed the aid of the United States Circuit Court for the Northern District of Illinois in removing the serious and widespread obstructions to the transportation of interstate commerce and the mails. The jurisdiction of the court to grant the relief prayed was established by well settled authority, and by the express provision of the Act of July 2, 1890. The application of that act, and the constitutionality of the section conferring jurisdiction, had both been determined by United States Courts of superior authority. Therefore, when such a bill was presented to United States Judges WOODS and GROSSCUP, they could not refuse the injunction without a violation of duty. No matter what view may be entertained upon the questions involved, the precedents were so clearly in support of their action that it cannot be the object of just criticism.

CRIMINAL PROSECUTIONS.

There was yet a third method of dealing with this lawless condition: the offenders might be prosecuted criminally for the violation of United States statutes. This could deal with offenses only after they had been committed, and could not control the after action of the offender. The deterrent power of this method rests only in the fear which the threatened punishment may inspire, and that punishment can come only after prolonged proceedings in court. For dealing directly with such a condition of affairs as existed in Cook County on July 2, 1894, criminal prosecutions were utterly valueless. The large number of persons in the conspiracy was a great protection against criminal prosecution: it was deemed by those engaged in the lawlessness a perfect protection. Although a special grand jury was summoned July 10th, to deal with these violations, not a single important offender was seriously restrained of his liberty on account of the indictments found, and six months later not one of them had been brought to trial.

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The participants in the conspiracy to tie up and paralyze the railroads of the west, were guilty of violating criminal statutes of the United States relating to the obstruction of the mails (Sec. 3995); to conspiracies to commit offenses against the United States (Sec. 5440); and to conspiracies to injure, oppress, threaten and intimidate citizens in the free exercise and enjoyment of their rights and privileges under the Constitution and laws of the United States (Sec. 5508). The utter inadequacy of prosecutions under these criminal statutes to stop the lawlessness of last July is not suggested as an argument against enforcing them in the regular way. It was the duty of the federal officers to proceed vigorously against all violators of these laws. But the inefficiency of such prosecutions to give relief in such an emergency is a reason why the government should use every other lawful instrument to uphold the national authority, protect against obstruction the United States mails and the national highways of trade, and to support the United States Courts and their officers in the enforcement of their decrees. That emergency demanded the interposition of national authority along each of the lines above indicated. The government's use of the three agencies was warranted not only by that need, but by the laws of the land. And the most efficient of these three means, according to the testimony of President Debs before the Strike Commission, was the writ of injunction.*

*"It was not the soldiers that ended the strike; it was not the old brotherhoods that ended the strike; it was simply the United States Courts that ended the strike. Our men were in a position that never would have been shaken under any circumstances if we had been permitted to remain upon the field, to remain among them. When we were taken from the scene of action and restrained from sending telegrams or issuing orders or answering questions, then the minions of the corporations would be put to work at such places. The headquarters were demoralized and abandoned, we could not answer any telegrams or questions that would come in. The men went back to work * * * and the strike was broken up, * * * not by the army, and not by any power, but simply by the government of the United States in restraining us from discharging our duties as officers and representatives of our employes."

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WHAT RIGHTFUL BASIS IS THERE FOR USING INJUNCTIONS AND CONTEMPT PROCEEDINGS AGAINST SUCH CRIMINAL OFFENSES?

Of the questions raised by the action of the government, the propriety of appealing to equity has been most discussed. The use of the troops and of criminal proceedings, as well as of the injunction, have been denounced by all sympathizers with the strike. They have declared the use of each to be an infringement of the people's rights; that the officers of the government were "helping capital to enslave labor." Of course such criticism is the result of misguided feeling. The issuance of the injunction, however, has been severely criticised by men whose learning and position give their opinions weight.

These criticisms may be summarized thus:

(1.) That although there may be precedent for equitable interposition in such a state of affairs, the decisions are rare and represent the stress or peculiar circumstances of the time, rather than the sober and well-reasoned judgment of successive courts. That such legal authority illustrates the maxim, "hard cases make bad law."

(2.) It is, perhaps, more generally urged against this relief that it is inappropriate and contrary to the spirit of our government and laws: that the use of the injunction at the suit of the government to repress mob aggression upon private property or public rights, is practically to make the courts an agency of the executive authority,—a virtual and dangerous confusion of two distinct branches of government; that for such purpose, an injunction must be either "a mere executive proclamation, and, therefore, a *brutum fulmen*," or else an attempt to use the courts of chancery for the enforcement of criminal law and the punishment of its violators; and

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that, when used for the latter purpose, the proceeding is a violation of the constitutional guaranty of the right of trial by jury. It seems to be assumed that when an act in violation of property right is also a crime, its character as a violation of an order of a court of chancery protecting that right, is entirely changed. If a man burn my house no one supposes that he should escape liability for the damages because he may be indicted and punished for arson. If a man assault a juror in the presence of the court, no one contends that the court should not vindicate its authority and punish him for contempt, merely because the juror has an action for damages, and the state can punish criminally for the assault. It is a familiar proceeding: a court of chancery derives its value from its power to compel obedience to its decrees. That the violation of its decree is also a crime is wholly irrelevant. The crime is one thing; the violation of the order of court, an entirely different thing.

When that order has been entered at the prayer of an individual for the protection of private interests, no one claims that punishment for contempt is a denial of trial by jury, merely because the violation is so gross as to be a crime.

Here the government was entitled to have its property in the mails and the free operation of the instruments of interstate commerce protected. The fact that the violation of an order made to protect them had been declared a crime by United States statutes, cannot change either its character or the right and duty of the court to treat it as such a violation, regardless of its criminal nature. The contrary view not only ignores this essential distinction between the two characters which such an act may have; it also limits the power of a court of equity to the protecting of such rights against the lesser violations only. It permits the contemnor, by aggravating his violation of right and of the court's order, to place himself beyond the power to punish which the court has in ordinary cases. It

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makes this the rule: the grosser the violation, the less the contempt.

It proceeds upon another error: that the multitude of the offenders may change the law applicable to the offense. There is a saying that to kill one man is murder, and to kill a thousand is glory; but it hardly rests upon any principle either of law or ethics, nor can be invoked as an analogue to the objection urged. The multitude of offenders is rather an argument in favor of the remedy; for the avoidance of multiplicity of suits is a familiar ground of equitable jurisdiction.

But the argument against relief by injunction based upon the criminality of the acts, or on the large number of persons engaged in them, applies equally to suits by individuals for the protection of their property rights against such organized aggressions. If the United States ought not to invoke the aid of equity to protect its rights against the assaults of a multitude of conspirators, neither should the individual. There is certainly more danger to public and to private rights from such a rule than from the existing law, which makes no distinction on account of the number of wrong-doers.

Our examination of the authorities has already disclosed that the precedents are neither rare nor ill-considered. But it is urged that although the injunction may be lawful, it ought not to be used against a great conspiracy like this, because it is certain to be disobeyed and ignored; or, if it is enforced, it will be due to the power of the court to punish violations as contempts. If such an order is futile against a great number of conspirators, there would seem no reason to fear lest the rights of the people be overthrown by the issuance of injunctions in such cases. The government is not likely to indulge in useless litigation, whether in the interest

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of the poor or the rich; and individuals are not apt to ask for orders which are inherently, or have been found to be, mere *bruta fulmina*.

It is perhaps indicative of the uncertainty of the critics that these contradictory reasons are stated in the alternative. If there is any force in these objections, they rest on the belief that such orders may have a strongly deterrent effect. In this case the chief violator of the order testified that it had. He and his fellow leaders have been tried, convicted and committed for its violation. Does the history of the exercise of this power in the past, or its exercise in this case furnish any basis for charging that its use under such conditions endangers the liberties of the people? Has it ever been exercised oppressively? Can it be claimed that the acts done by the directors of the American Railway Union were not unlawful, or not in violation of the injunction? Or that the punishment meted to them was unwarranted or excessive?

CONCLUSION.

The Chicago strike was a gigantic conspiracy to stop railroad transportation. No act done under such a conspiracy could be lawful. It was a deliberate and open defiance of the rights of private property, and the laws protecting them; a declaration that such laws must give way when they oppose the avowed moral rights of "organized labor." It was essentially an appeal to anarchy.

The leader of the strike has recently given the measure of his intelligence by asking: "If I was convicted of conspiracy, why am I imprisoned for contempt?" It is the misfortune of the labor organizations as of political organizations, that they are largely led by men who prefer to appeal to the ignorance and prejudice of their followers rather than to their intelligence and sense of right. Labor reforms, like political reforms, are essentially moral; and no man is fit to lead them

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who distrusts the power of moral forces or seeks to supplement them with craft, chicane or contempt for law.

The Chicago strike of 1894 presented a conspiracy unprecedented in its proportions and novel in its purpose and scope. But in its legal character, in the acts done in pursuance of it, and in the remedies applied to it, there was nothing essentially new. It is to be remarked, therefore, when gentlemen trained in the history and learning of the English law strenuously protest against the application to those acts of remedies that are admittedly appropriate to similar offenses; and that they should rest their objection on the inadequacy of the remedy, and at the same time upon the means used to make it partially efficient. It is also noteworthy that the official investigation of this strike leaves the question open whether it was wrong or not; or if wrong, whether a large portion of the responsibility for the injuries inflicted upon private property and society at large is not to be laid at the door of the much suffering and much guilty, "the people themselves." When it is reported, as the result of such an investigation, that "much of the real responsibility" for the lawlessness and destruction of property is to be found in the defects of our laws and in their inefficient enforcement, the defense of anarchy ought to be easy, if not honorable.*

It is unfortunate that the report which attributes the lawlessness to defects in the law does not indicate what those defects are. Still more to be regretted is the failure of the commission to give the importance of obedience to law, no matter how defective, a place in its report.

In every contest between the employer and the employed, their inequality is real, and is generally disastrous to the employed. This inequality rests in economic and social laws which we are only beginning to understand. It involves

* Report, Strike Commission, page 43.

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questions outside of the scope of this paper. There must be found a way to lessen if not remove it by law. But they obscure the fact, and discredit the demand for such legislation, who insist that violations of private and public rights, and assaults upon the peace and good order of society, are to be dealt with leniently or pardoned, whenever these offenses are committed by the avowed champions of labor or by the advocates of juster laws.

When a moral or social reform is deemed worthy of public attention and aid in proportion as its adherents are successful in paralyzing great industries and embroiling vast numbers of men in industrial war, we may as well abandon all claim to intelligence, self-control and morality.

Legal and social physicians, who assume from each new symptom or unusual combination of symptoms that an entirely new social disease has been discovered and that all known remedies are to be abandoned, are hardly the safest advisers as to what the disease is, or the most competent to discover the appropriate remedy. It is not in our blood or in our history that we should meet crises in that way. We do not seek in each emergency to create a new heaven and a new earth. The confusion of moral distinctions, the ignoring of guaranteed rights to freedom of person and property—as well of workingmen as of capitalists—the confounding of legal rights with moral duties—of the duty to be kind and generous with the duty to obey the law—these may aid the chauvinist in preparing an acceptable solution of the pressing problem. They can have no part in any investigation or recommendation that is to have a permanent value for society at large, or for either of the so-called classes of "labor" and "capital."

Anglo-Saxon liberties have not been thus preserved. The great bulwark of those liberties, the common law, has not been thus developed. Those liberties and that law are noteworthy chiefly in this: that they have been a growth and not a crea-

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tion. That growth has been continuous and natural—"by painful steps and slow"—guided by certain fundamental principles, simple in their statement, few in number, but of most comprehensive scope. These have not changed suddenly nor been abandoned in the face of unexpected crises. The race has assumed, and thus far has successfully assumed, that these crises could be best met and solved along the lines of established law.

No man is so much interested in the preservation of American institutions as the poor man. Even defective laws lessen the inequality of power between rich and poor. Under these institutions and under these laws, the reign of the common people began; and their elevation as individuals, more important than their reign, has greatly advanced.

But in thus insisting upon allegiance to law, and the preservation of social order, we should not disregard the feeling of unrest and discontent that pervades so large a portion of society. While we heed and obey the commands of the law, we should give ear to "the still small voice that speaks to the conscience and the heart, prompting us to a wider and wiser humanity."

I believe in organizations of railroad employes. Though they have thus far largely increased the number, extent and rigor of strikes and boycotts, they are not to be condemned as useless or noxious on that account. These unfortunate strifes have been incident to the defects of the organization, the inexperience and ignorance of members, and the limitations—intellectual or moral—of their leaders. They have already largely benefited the employes and the service, and they are capable of much greater usefulness in both regards. The boycott is already an anachronism; and the strike will be, when the higher utilities of such organizations are appreciated by railway employes and railway companies. These organizations are now in the formative, semi-civilized stage; and like rude nations they exaggerate the needs and uses of war and its weapons. The railway

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companies are equally wrong in their attitude toward these organizations. Both sides to labor conflicts see only the surface hostility between their respective interests. Neither has yet learned—or learning, has heeded—the deeper relation in which their interests are the same. They draw their subsistence from the same source, the prosperity of the railroad business. It depends upon the efficiency and devotion of the men, the ability and honesty of the managers. Let both sides maintain and strengthen their lawful defenses. But let them follow the example of the armed powers of Europe,—enter into and preserve relations of constant and close communication and of friendly conference. At present the railway manager almost resents a communication from an officer of a labor organization; and the labor leader fears the suspicions and distrust of his order if he confers with a manager when there is no *casus belli* to discuss. Both sides have usually been dictatorial and unconciliatory. Each has thought that might was ample right, and that it had the might. Men are seldom careful of others' rights when they feel certain that they can violate them safely. Let each side abate somewhat its reliance upon its power to have its way, and give up its notion that it can control or overthrow the other. Then both will be more ready to confer together and to be guided by the facts and by reason.

The labor organizations should have a standing in court, and everywhere, in disputes that affect their members. They should be compelled to incorporate; in this way they would have certain specified and limited powers and objects, recognized by the law, understood by the members, and known by the public. They would then have greater powers, greater duties, greater opportunities and a keener sense of responsibility. But the individuality of each member should be increased rather than lessened. His rights and his duties should not be absorbed by

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the organization. On the contrary, the organization should be the instrument of the members in the better performance of their duties, and in the protection of their individual rights. The fraternal feeling on which such organizations rest should be developed and exercised for the uplifting of the members, not as a class, but as men. The strong centralization which has been developed by industrial wars is a restraint upon the growth and advancement of the members according to their several talents. The ultimate strength of such organizations is in the character and intelligence of the members. Perfection of organization is, and must always be, secondary to the moral forces that control public opinion.

But it is not my purpose to suggest solutions of the social problems that are now so much discussed. A clear understanding of those problems is the greatest need. If the Chicago strike of 1894 is to yield any benefit to the cause of good government or to the laboring people, it must be through its emphasis of certain plain truths.

It is the enforcement and not the violation of bad laws that brings them into disrepute. Anarchy is not a cure for defective legislation.

Social and moral questions cannot be discussed with violators of law. Conciliation ends where lawlessness begins.

If labor and capital are to be treated as parties to a necessary contest, all legislation must apply to both. There can be no compulsory employment without compulsory service under like conditions. If the employe is to have a legal claim upon his place, the employer must have a legal claim upon his service.

No private or public interest can be so great as to warrant a compromise with violators of law. It is more important to correctly place the responsibility for social disorder than to stop it.

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No philanthrophy, either of speech or of gifts, can gloze injustice or unlawful conduct.

The lesson of the Chicago strike of 1894 may be found in these words, from a recent study of Napoleon:

"He was an embodiment of the spirit of the French Revolution, in which some of the noblest sentiments of love and liberty ever framed into eloquent words stand in strange contrast with some of the blackest and bloodiest crimes ever written in tragic deeds. And both serve as a warning to the philosophy which in our time confounds liberty and lawlessness, which conceives a man to be good because he has good impulses, or a state to be secure because it has noble ideas; which forgets that the lawless will of a multitude is no better than the lawless will of an individual, and fondly imagines that a people may know no law higher than their own inclinations, and yet the voice of the people be the voice of God."*

*Lyman Abbott, in the *Outlook*, Dec. 1, 1894.

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